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TITLE 15

NATURAL RESOURCES AND ECONOMIC DEVELOPMENT

(CHAPTERS 40-76 IN VOLUME 13B)

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SUBTITLE 1. DEVELOPMENT OF ECONOMIC AND NATURAL RESOURCES GENERALLY

CHAPTER 2

SOUTHERN GROWTH POLICIES AGREEMENT

SECTION.

15-2-101. Enactment and text.

15-2-101. Enactment and text.

The Southern Growth Policies Agreement is hereby enacted into law and entered into by this State with all other states legally joining therein in the form substantially as follows:

SOUTHERN GROWTH POLICIES AGREEMENT

ARTICLE I

Findings and Purposes

(a) The party states find that the South has a sense of community based on common social, cultural, and economic needs and fostered by a regional tradition. There are vast potentialities for mutual improvement of each state in the region by cooperative planning for the development, conservation, and efficient utilization of human and natural resources in a geographic area large enough to afford a high degree of flexibility in identifying and taking maximum advantage of opportunities for healthy and beneficial growth. The independence of each state and the special needs of subregions are recognized and are to be safeguarded. Accordingly, the cooperation resulting from this Agreement is intended to assist the states in meeting their own problems by enhancing their abilities to recognize and analyze regional opportunities and take account of regional influences in planning and implementing their public policies.

(b) The purposes of this agreement are to provide:

1. Improved facilities and procedures for study, analysis, and planning of governmental policies, programs, and activities of regional significance;

2. Assistance in the prevention of interstate conflicts and the promotion of regional cooperation;

3. Mechanisms for the coordination of state and local interests on a regional basis;

4. An agency to assist the states in accomplishing the foregoing.

ARTICLE II

The Board

(a) There is hereby created the Southern Growth Policies Board, hereinafter called "the board."

(b) The board shall consist of five (5) members from each party state, as follows:

1. The Governor;

2. One (1) member appointed by the Speaker of the House of Representatives to serve at his pleasure;

3. One (1) member appointed by the President Pro Tempore of the Senate to serve at his pleasure; and

4. Two (2) residents of the state who shall be appointed by the Governor to serve at his pleasure.

(c) In making appointments pursuant to paragraph (b)3, a Governor shall, to the greatest extent practicable, select persons who, along with the other members serving pursuant to paragraph (b), will make the state's representation on the board broadly representative of the several socio-economic elements within his state.

(d) 1. A Governor may be represented by an alternate with power to act in his place and stead, if notice of the designation of such alternate is given to the board in such manner as its bylaws may provide.

2. A member of the board serving pursuant to paragraph (b)3 of this Article may be represented by another resident of his state who may participate in his place and stead, except that he shall not vote; provided that notice of the identity and designation of the representative selected by the member is given to the board in such manner as its bylaws may provide.

ARTICLE III

Powers

(a) The board shall prepare and keep current a Statement of Regional Objectives, including recommended approaches to regional problems. The statement may also identify projects deemed by the board to be of regional significance. The statement shall be available in its initial form two (2) years from the effective date of this agreement and shall be amended or revised no less frequently than once every six (6) years. The statement shall be in such detail as the board may prescribe. Amendments, revisions, supplements, or evaluations may be transmitted at any time. An annual commentary on the statement shall be submitted at a regular time to be determined by the board.

(b) In addition to powers conferred on the board elsewhere in this agreement, the board shall have the power to make or commission studies, investigations, and recommendations with respect to:

1. The planning and programming of projects of interstate or regional significance;

2. Planning and scheduling of governmental services and programs which would be of assistance to the orderly growth and prosperity of the region and to the well-being of its population;

3. Effective utilization of such federal assistance as may be available on a regional basis or as may have an interstate or regional impact;

4. Measure for influencing population distribution, land use, development of new communities, and redevelopment of existing ones;

5. Transportation patterns and systems of interstate and regional significance;

6. Improved utilization of human and natural resources for the advancement of the region as a whole;

7. Any other matters of a planning, data collection, or informational character that the board may determine to be of value to the party states.

ARTICLE IV

Avoidance of Duplication

(a) To avoid duplication of effort and in the interest of economy, the board shall make use of existing studies, surveys, plans, and data and

other materials in the possession of the governmental agencies of the party states and their respective subdivisions or in the possession of other interstate agencies. Each such agency, within available appropriations and if not expressly prevented or limited by law, is hereby authorized to make such materials available to the board and to otherwise assist it in the performance of its functions. At the request of the board, each such agency is further authorized to provide information regarding plans and programs affecting the region, or any subarea thereof, so that the board may have available to it current information with respect thereto.

(b) The board shall use qualified public and private agencies to make investigations and conduct research, but if it is unable to secure the undertaking of such investigations or original research by a qualified public or private agency, it shall have the power to make its own investigations and conduct its own research. The board may make contracts with any public or private agencies or private persons or entities for the undertaking of such investigations or original research within its purview.

(c) In general, the policy of paragraph (b) of this Article shall apply to the activities of the board relating to its Statement of Regional Objectives, but nothing herein shall be construed to require the board to rely on the services of other persons or agencies in developing the Statement of Regional Objectives or any amendment, supplement, or revision thereof.

ARTICLE V

Advisory Committees

The board shall establish a Local Government Advisory Committee. In addition, the board may establish advisory committees representative of subregions of the South, civic and community interests, industry, agriculture, labor, or other categories or any combinations thereof. Unless the laws of a party state contain a contrary requirement, any public official of the party state or a subdivision thereof may serve on an advisory committee established pursuant hereto and such service may be considered as a duty of his regular office or employment.

ARTICLE VI

Internal Management of the Board

(a) The members of the board shall be entitled to one (1) vote each. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor thereof. Action of the board shall be only at a meeting at which a majority of the members or their alternates are present. The Board shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the board may delegate the exercise of any of its powers relating to internal adminis-

tration and management to an executive committee or the executive director. In no event shall any such delegation include final approval of:

1. A budget or appropriation request;
2. The Statement of Regional Objectives or any amendment, supplement, or revision thereof;
3. Official comments on or recommendations with respect to projects of interstate or regional significance;
4. The annual report.

(b) To assist in the expeditious conduct of its business when the full board is not meeting, the board shall elect an executive committee of not to exceed seventeen (17) members, including at least one (1) member from each party state. The executive committee, subject to the provisions of this agreement and consistent with the policies of the board, shall be constituted and function as provided in the bylaws of the board. One-half (½) of the membership of the executive committee shall consist of Governors, and the remainder shall consist of other members of the board, except that at any time when there is an odd number of members on the executive committee, the number of Governors shall be one (1) less than one-half (½) of the total membership. The members of the executive committee shall serve for terms of two (2) years, except that members elected to the first executive committee shall be elected as follows: one (1) less than one-half (½) of the membership for two (2) years and the remainder for one (1) year. The chairman, chairman-elect, vice-chairman and treasurer of the board shall be members of the executive committee and anything in this paragraph to the contrary notwithstanding shall serve during their continuance in these offices. Vacancies in the executive committee shall not affect its authority to act, but the board at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term.

(c) The board shall have a seal.

(d) The board shall elect, from among its members, a chairman, a chairman-elect, a vice-chairman and a treasurer. Elections shall be annual. The chairman-elect shall succeed to the office of chairman for the year following his service as chairman-elect. For purposes of the election and service of officers of the board, the year shall be deemed to commence at the conclusion of the annual meeting of the board and terminate at the conclusion of the next annual meeting of the board. The board shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the board, and together with the treasurer and such other personnel as the board may deem appropriate shall be bonded in such amounts as the board shall determine. The executive director shall be secretary.

(e) The executive director, subject to the policy set forth in this agreement and any applicable directions given by the board, may make contracts on behalf of the board.

(f) Irrespective of the civil service, personnel, or other merit system laws of any of the party states, the executive director, subject to the approval of the board, shall appoint, remove, or discharge such person-

nel as may be necessary for the performance of the functions of the board, and shall fix the duties and compensation of such personnel. The board in its bylaws shall provide for the personnel policies and programs of the board.

(g) The board may borrow, accept, or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two (2) or more of the party jurisdictions or their subdivisions.

(h) The board may accept for any of its purposes and functions under this agreement any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency or from any person, firm, association, foundation, or corporation, and may receive, utilize, and dispose of the same. Any donation or grant accepted by the board pursuant to this paragraph or services borrowed pursuant to paragraph (g) of this Article shall be reported in the annual report of the board. Such report shall include the nature, amount, and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

(i) The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold, and convey real and personal property and any interest therein.

(j) The board shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The board shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(k) The board annually shall make to the governor and legislature of each party state a report covering the activities of the board for the preceding year. The board at any time may make such additional reports and transmit such studies as it may deem desirable.

(l) The board may do any other or additional things appropriate to implement powers conferred upon it by this agreement.

ARTICLE VII

Finance

(a) The board shall advise the Governor or designated officer or officers of each party state of its budget of estimated expenditures for such period as may be required by the laws of that party state. Each of the board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

(b) The total amount of appropriation requests under any budget shall be apportioned among the party states. Such apportionment shall be in accordance with the following formula:

1. One-third (⅓) in equal shares;
2. One-third (⅓) in the proportion that the population of a party state bears to the population of all party states; and

3. One-third (⅓) in the proportion that the per capita income in a party state bears to the per capita income in all party states.

In implementing this formula, the board shall employ the most recent authoritative sources of information and shall specify the sources used.

(c) The board shall not pledge the credit of any party state. The board may meet any of its obligations in whole or in part with funds available to it pursuant to Article VI(h) of this agreement, provided that the board takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner.

Except where the board makes use of funds available to it pursuant to Article VI(h), or borrows pursuant to this paragraph, the board shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same. The board may borrow against anticipated revenues for terms not to exceed two (2) years, but in any such event the credit pledged shall be that of the board and not of a party state.

(d) The board shall keep accurate accounts of all receipts and disbursements of the board, which shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the board shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the board.

(e) The accounts of the board shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the board.

(f) Nothing contained herein shall be construed to prevent board compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the board.

ARTICLE VIII

Cooperation with the Federal Government and Other Governmental Entities

Each party state is hereby authorized to participate in cooperative or joint planning undertakings with the federal government, and any appropriate agency or agencies thereof, or with any interstate agency or agencies. Such participation shall be at the instance of the Governor or in such manner as state law may provide or authorize. The board may facilitate the work of state representatives in any joint interstate or cooperative federal-state undertaking authorized by this Article, and each such state shall keep the board advised of its activities in respect of such undertakings, to the extent that they have interstate or regional significance.

ARTICLE IX

Subregional Activities

The board may undertake studies or investigations centering on the problems of one or more selected subareas within the region; provided that, in its judgment, such studies or investigations will have value as demonstrations for similar or other areas within the region. If a study or investigation that would be of primary benefit to a given state, unit of local government, or intrastate or interstate area is proposed, and if the board finds that it is not justified in undertaking the work for its regional value as a demonstration, the board may undertake the study or investigation as a special project. In any such event, it shall be a condition precedent that satisfactory financing and personnel arrangements be concluded to assure that the party or parties benefited bear all costs which the board determines that it would be inequitable for it to assume. Prior to undertaking any study or investigation pursuant to this Article as a special project, the board shall make reasonable efforts to secure the undertaking of the work by another responsible public or private entity in accordance with the policy set forth in Article IV(b).

ARTICLE X

Comprehensive Land Use Planning

If any two (2) or more contiguous party states desire to prepare a single or consolidated comprehensive land use plan, or a land use plan for any interstate area lying partly within each such state, the governors of the states involved may designate the board as their joint agency for the purpose. The board shall accept such designation and carry out such responsibility, provided that the states involved make arrangements satisfactory to the board to reimburse it or otherwise provide the resources with which the land use plan is to be prepared. Nothing contained in this Article shall be construed to deny the availability for use in the preparation of any such plan of data and information already in the possession of the board or to require payment on account of the use thereof in addition to payments otherwise required to be made pursuant to other provisions of this agreement.

ARTICLE XI

Compacts and Agencies Unaffected

Nothing in this agreement shall be construed to:

1. Affect the powers or jurisdiction of any agency of a party state or any subdivision thereof;

2. Affect the rights or obligations of any governmental units, agencies, or officials, or of any private persons or entities conferred or imposed by any interstate or interstate-federal compacts to which any one or more states participating herein are parties;

3. Impinge on the jurisdiction of any existing interstate-federal mechanism for regional planning or development.

ARTICLE XII

Eligible Parties; Entry into and Withdrawal

(a) This agreement shall have as eligible parties the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the territories of Puerto Rico and the Virgin Islands.

(b) Any eligible state may enter into this agreement, and it shall become binding thereon when it has adopted the same, provided that in order to enter into initial effect, adoption by at least five (5) states shall be required.

(c) Adoption of the agreement may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his state a party only until December 31, 1973. During any period when a state is participating in this agreement through gubernatorial action, the Governor may provide to the board an equitable share of the financial support of the board from any source available to him. Nothing in this paragraph shall be construed to require a governor to take action contrary to the constitution or laws of his state.

(d) Except for a withdrawal effective on December 31, 1973, in accordance with paragraph (c) of this Article, any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one (1) year after the Governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE XIII

Construction and Severability

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable, and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

History. Acts 1973, No. 327, § 1; 1979, No. 429, § 1; A.S.A. 1947, § 9-1501; Acts 2013, No. 1287, § 2.

Amendments. The 2013 amendment in Article II of this section added (b)3. and redesignated the remaining subdivisions accordingly; substituted "One (1) member appointed by the Speaker of the House of Representatives to serve at his pleasure" for "Two (2) members of the state legislature, one (1) appointed by the presiding officer of each house of the legislature or in such other manner as the legislature may provide" in (b)2.; deleted former (d)2. and redesignated the remaining subdivisions accordingly.

CHAPTER 3

SCIENCE AND TECHNOLOGY AUTHORITY

SUBCHAPTER.

5. Arkansas Acceleration Fund Act.

Subchapter 5 — Arkansas Acceleration Fund Act

SECTION.

15-3-501. Title.
15-3-502. Legislative intent.
15-3-503. Advisory capacity of Arkansas Research Alliance.
15-3-504. [Repealed.]
15-3-505. Recommendations.

Effective Dates. Acts 2013, No. 1095, § 12: Apr. 11, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the continuous operation of the Arkansas Risk Capital Matching Fund is essential to maintaining the state's entrepreneurial infrastructure that is available to Arkansas citizens seeking to create employment opportunities in the state; that this act is necessary to meet immediate demands for funding under the program; and that this act is immediately necessary to provide for continuity of services to Arkansas entrepreneurs and immediate employment opportunities. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

15-3-501. Title.

This subchapter shall be known and may be cited as the "Arkansas Acceleration Fund Act".

History Acts 2011, No. 706, § 1.

15-3-502. Legislative intent.

(a) The General Assembly finds that in October 2008 the Arkansas Task Force for the 21st Century Economy found and recommended that:

(1) Education, research and development, entrepreneurship, risk capital, existing business innovation, and cyberinfrastructure are the most critical roles to Arkansas's success in the twenty-first century global economy;

(2) Twenty-six (26) programs, initiatives, and constitutional issues be given priority consideration as being key to competitiveness and contributing to economic development in the twenty-first century global economy;

(3) Resources should be dedicated to further study the structure and effectiveness of the state's economic development organizations because economic development is ever changing and the continuing review will provide information about twenty-first century demands on the organizations; and

(4) Arkansas should create a dedicated revenue stream for funding twenty-first century business development.

(b) The General Assembly further finds that in 2009 the Arkansas Governor's Strategic Plan for Economic Development identified that Arkansas:

(1) Needs an approach to an economy supported by knowledge-based jobs; and

(2) Lacks a recurring and predictable funding formula for economic development.

History Acts 2011, No. 706, § 1.

15-3-503. Advisory capacity of Arkansas Research Alliance.

(a) The Arkansas Research Alliance shall serve in an advisory capacity to the Governor, the General Assembly, the Arkansas Science and Technology Authority, and other agencies responsible for programs enumerated in subsection (b) of this section.

(b)(1) The Arkansas Research Alliance shall make recommendations regarding support and assistance for the accelerated growth of knowledge-based and high-technology jobs in the State of Arkansas through focused funding of the state's initiatives and programs.

(2) For funds in the Arkansas Acceleration Fund, § 19-5-1243, the Arkansas Research Alliance shall make recommendations to the authority regarding the allocation or reallocation of funds and moneys for programs and initiatives authorized by the:

(A) Arkansas Research Alliance Act, § 15-3-301 et seq.;

(B) Innovate Arkansas Fund, § 19-5-1237;

(C) Arkansas Risk Capital Matching Fund Act of 2007, § 15-5-1601 et seq.;

(D) Supplemental science, technology, engineering, and math fund grants under § 6-17-2701 et seq.;

(E) Existing programs of the authority authorized under § 15-3-101 et seq., § 15-3-201 et seq., § 15-3-301 et seq., and § 15-3-401 et seq.;

(F) Arkansas Technical Careers Student Loan Forgiveness Program, § 6-50-201; and

(G) Any other programs or activities aimed at the creation of knowledge-based and high-technology jobs.

(3) In consultation with members of the Arkansas Research Alliance, the Chief Executive Officer of the Arkansas Research Alliance may solicit input, advice, or counsel from any group or individual concerning a policy or funding decision of the Arkansas Research Alliance, including without limitation Accelerate Arkansas, Innovate Arkansas, and Connect Arkansas.

History Acts 2011, No. 706, § 1; 2013, No. 1095, § 1.

Amendments. The 2013 amendment rewrote the section catchline and (a); substituted "Arkansas Research Alliance" for "committee" in (b)(1) and (2); and added (b)(2)(G) and (b)(3).

15-3-504. [Repealed.]

Publisher's Notes. This section, concerning committee members of the Arkansas Acceleration Fund Committee, was repealed by Acts 2013, No. 1095, § 2. The section was derived from Acts 2011, No. 706, § 1.

15-3-505. Recommendations.

(a) Upon receiving funding for knowledge-based and high-technology job advancement, the Arkansas Science and Technology Authority shall ensure that the Arkansas Research Alliance meets at least annually to recommend the allocation and priorities of funding, funding ratios, and the maximum amounts to be made available among the particular programs to be supported under this chapter and that will accelerate the development of knowledge-based and high-technology jobs in Arkansas.

(b) The alliance may base its recommendations for investment and reinvestment on an analysis of the growth in the state's knowledge-based and high-technology jobs and associated wages and estimated individual state income tax revenue.

(c) The alliance's recommendations may be used to guide the preparation of budget requests by the Arkansas Science and Technology Authority or budget requests by state agencies for the programs stated in § 15-3-503(b).

(d)(1) The Board of Directors of the Arkansas Science and Technology Authority may act on the alliance's recommendations.

(2) The governing body of each agency listed under § 15-3-503(b) may act on the alliance's recommendations for the programs listed in its area.

(3) The board shall report its actions to the Governor by June 30 of each year and shall forward copies of the report to the agencies included in the report's recommendations.

History Acts 2011, No. 706, § 1; 2013, No. 1095, § 3.

Amendments. The 2013 amendment rewrote (a); substituted "alliance" for "committee" in (b); and substituted "alliance's" for "committee's" in (c) and (d).

CHAPTER 4

DEVELOPMENT OF BUSINESS AND INDUSTRY GENERALLY

SUBCHAPTER.

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36. New Markets Jobs Act of 2013.

Subchapter 1 — General Provisions

SECTION.

15-4-102. Construction.

15-4-102. Construction.

(a) This section and §§ 15-4-101, 15-4-201 — 15-4-204, 15-4-206, 15-4-209, 15-4-210, and § 15-4-501 et seq. shall be construed liberally.

(b) The enumeration of any object, purpose, power, manner, method, or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, or things.

History. Acts 1979, No. 65, § 7; A.S.A. 1947, § 9-540; Acts 2013, No. 1185, § 2.

Amendments. The 2013 amendment substituted "15-4-210" for "15-4-212" in (a).

Subchapter 2 — Arkansas Economic Development Council

SECTION.

15-4-201. Arkansas Economic Development Council — Creation.
15-4-202. Arkansas Economic Development Council — Members.
15-4-203. Arkansas Economic Development Council — Organization and meetings.
15-4-204. Arkansas Economic Development Council — Functions, powers, and duties.
15-4-205. Arkansas Economic Development Commission — Status and purpose.
15-4-206. Arkansas Economic Development Commission — Executive Director.
15-4-207, 15-4-208. [Repealed.]

SECTION.
15-4-209. Arkansas Economic Development Commission — Functions, powers, and duties.
15-4-210. Arkansas Economic Development Commission — Foreign operation — Reports.
SECTION.
15-4-211 — 15-4-214. [Repealed.]
15-4-218. [Repealed.]
15-4-219. Annual report.
15-4-220. Audit of economic incentive programs.

15-4-201. Arkansas Economic Development Council — Creation.

There is created and established at the seat of government of this state a council to be known as the "Arkansas Economic Development Council".

History. Acts 1955, No. 404, § 1 [2]; A.S.A. 1947, § 9-505; Acts 1997, No. 540, § 19; 2007, No. 1602, § 3; 2013, No. 1185, § 1.

Amendments. The 2013 amendment added "Arkansas Economic Development Council" to the section heading and deleted "hereinafter referred to as the 'council' " at the end.

15-4-202. Arkansas Economic Development Council — Members.

(a)(1) The Arkansas Economic Development Council shall consist of sixteen (16) members, who shall be qualified electors of this state, to be appointed by the Governor with the advice and consent of the Senate.

(2)(A) At least three (3) members shall be appointed from each of the four (4) congressional districts existing on January 1, 2012.

(B) Four (4) members shall be appointed at large.

(3) The members appointed by the Governor shall be selected with special reference to their knowledge of and interest in the resources and economic development of the State of Arkansas.

(b) For each member appointed by the Governor, the term of office shall commence on January 15 following the expiration date of the preceding term and shall end on January 14 of the fourth year following the year in which the regular term commenced.

(c) A vacancy arising in the membership of the council appointed by the Governor for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor to be thereafter effective until the expiration of the terms, subject to the confirmation of the Senate when it is next in session.

(d) Before entering upon his or her duties, each member of the council shall take, subscribe, and file in the office of the Secretary of State an oath to support the Constitution of the United States and the Constitution of the State of Arkansas and to faithfully perform the duties of the office upon which he or she is about to enter.

(e) Members of the council may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

(f) Members of the council, acting in good faith, are not personally liable under this subchapter.

History. Acts 1955, No. 404, §§ 3-6; 1965, No. 553, §§ 1, 2; 1979, No. 65, § 3; 1981, No. 41, § 4; 1981, No. 249, §§ 1, 2; 1981, No. 452, §§ 1-3; 1985, No. 1005, § 2; A.S.A. 1947, §§ 9-506 — 9-509; Acts 1987, No. 91, § 1; 1987, No. 668, § 1; 1989, No. 885, § 1; 1997, No. 250, § 95; 2013, No. 1185, § 1.

Amendments. The 2013 amendment added "Arkansas Economic Development Council" to the section heading; substituted "qualified electors" for "residents and qualified electors" in (a)(1); substituted "2012" for "1987" in (a)(2)(A); substituted "economic development" for "industrial development" in (a)(3); and added (f).

15-4-203. Arkansas Economic Development Council — Organization and meetings.

(a)(1) The Arkansas Economic Development Council shall select a chair and vice chair annually from its membership.

(2) The Executive Director of the Arkansas Economic Development Commission shall be ex officio Secretary of the Arkansas Economic Development Council but shall have no vote on matters coming before it.

(b)(1) The council may adopt and modify rules for the conduct of its business and shall keep a public record of its transactions, findings, and determinations.

(2) The rules shall provide for regular meetings and for special meetings at the call of the Chair of the Arkansas Economic Development Council or of the Vice Chair of the Arkansas Economic Development Council, if he or she is for any reason the acting chair, either at his or her own instance or upon the written request of at least seven (7) members.

(3) The rules adopted under this section may allow for meetings to be held by conference call or other means of communication to conduct the council's business.

(4) A quorum shall consist of at least seven (7) members present at a regular or special meeting, and an affirmative vote of seven (7) members shall be necessary for the disposition of any business.

History. Acts 1955, No. 404, § 9; 1968 (2nd Ex. Sess.), No. 11, § 1; 1979, No. 65, § 4; 1981, No. 41, § 5; A.S.A. 1947, § 9-512; Acts 1997, No. 540, § 64; 2013, No. 1185, § 1.

Amendments. The 2013 amendment added "Arkansas Economic Development Council" to the section heading; substituted "annually" for "from time to time" in (a)(1); inserted "Executive" near the beginning of (a)(2); substituted "seven (7)" for "six (6)" at the end of (b)(2); inserted (b)(3) and redesignated former (b)(3) as present (b)(4); in (b)(4), substituted "at least seven (7) members" for "not fewer than six (6)" and "seven (7) members" for "that number."

15-4-204. Arkansas Economic Development Council — Functions, powers, and duties.

(a) The Arkansas Economic Development Council may serve in an advisory capacity to the Executive Director of the Arkansas Economic Development Commission, the Governor, and the General Assembly.

(b) A primary function of the council is to approve the issuance of guaranties of amortization payments on Act No. 9 bonds under the Industrial Revenue Bond Guaranty Law, § 15-4-601 et seq.

(c) The addition or elimination of international offices of the Arkansas Economic Development Commission by the commission shall first be approved by the council.

(d) By a majority vote, the council may establish committees and subcommittees as needed.

History. Acts 1955, No. 404, §§ 7, 8; 1971, No. 443, § 1; 1979, No. 65, § 4; A.S.A. 1947, §§ 9-510, 9-511; Acts 2013, No. 1185, § 1.

Amendments. The 2013 amendment added "Arkansas Economic Development Council" to the section heading; substituted "may serve in an advisory capacity to the Executive Director of the Arkansas Economic Development Commission, the Governor, and the General Assembly" for "shall have and be subject to all functions, powers, and duties imposed upon it by this act" in (a); rewrote (b) and (c); and added (d).

15-4-205. Arkansas Economic Development Commission — Status and purpose.

(a) The Arkansas Economic Development Commission is the state agency responsible for implementing programs and policies aimed at improving the state's economic condition.

(b) The purposes of the commission are to:

(1) Serve as the primary governmental source for carrying out the Governor's plan for economic development in the state;

(2) Promote the state with a central focus on regional economic development efforts;

(3) Coordinate the activities of private and public efforts to advance economic development in the state;

(4) Compile and disseminate all available information pertinent to the economic opportunities afforded by the state;

(5) Receive and disburse funds for the purpose of community and economic development; and

(6) Perform other duties as designated by the Governor.

History. Acts 1939, No. 68, § 3; A.S.A. 1947, § 9-501; Acts 1997, No. 540, § 65; 2013, No. 1185, § 1.

Amendments. The 2013 amendment substituted "Status and purpose" for "Information and investigations" in the section heading; and rewrote the section.

15-4-206. Arkansas Economic Development Commission — Executive Director.

(a)(1) The Executive Director of the Arkansas Economic Development Commission shall be appointed by the Governor subject to confirmation by the Senate.

(2) The executive director shall serve at the pleasure of the Governor.

(b) The executive director shall:

(1) Have the experience necessary to lead the Arkansas Economic Development Commission as determined by the Governor;

(2) Be custodian of all property held in the name of the commission; and

(3) Be the ex officio disbursing agent of all funds available for the commission's use.

History. Acts 1955, No. 404, § 10; 1979, No. 65, § 4; 1985, No. 712, §§ 1, 2; A.S.A. 1947, § 9-513; Acts 1997, No. 540, § 20; 2013, No. 1185, § 1.

Amendments. The 2013 amendment inserted "Executive" in the section heading; redesignated (a) as (a)(1) and (2); inserted "Executive" in (a)(1); inserted "executive" in (a)(2); rewrote (b); and deleted (c) and (d).

15-4-207, 15-4-208. [Repealed.]

Publisher's Notes. These sections, concerning duties of economic development commission regarding tax exemption to industries and cooperation of economic development commission with other states and federal government, were repealed by Acts 2013, No. 1185. § 1. The sections were derived from the following sources:

15-4-207. Acts 1939, No. 68, § 4; A.S.A. 1947, § 9-502; Acts 1997, No. 540, § 66.

15-4-208. Acts 1939, No. 68, § 5; A.S.A. 1947, § 9-503; Acts 1997, No. 540, § 66.

15-4-209. Arkansas Economic Development Commission — Functions, powers, and duties.

(a) The Arkansas Economic Development Commission shall:

(1) Administer grants, loans, cooperative agreements, tax credits, and other incentives, memoranda of understandings, and conveyances to assist with economic development in the state;

(2) In concert with others, periodically develop a strategic plan to guide the commission in the pursuit of the commission's stated mission;

(3) Cooperate with public and private organizations to advance the commission's goals and objectives as identified in the commission's most recent strategic plan;

(4) Administer the Small Cities Community Development Block Grant (CDBG) Program with funds received from the federal government;

(5) Collaborate with other entities in the formation and implementation of a state energy plan to guide the state on issues related to energy supply, energy efficiency, and energy resource development of both fossil and renewable energy sources;

(6) To the extent that funds are available, assist with the cost of infrastructure in the pursuit of new or expanded job creation;

(7) Encourage the exportation of Arkansas-produced goods and services;

(8) Assist small and minority businesses through certification, loans, technical assistance, or grants to encourage their growth and development;

(9) Provide assistance to cities, counties, and regions as they develop and implement their own plans for economic development;

(10) Establish and administer a business and industry training program to train both new and existing employees;

(11) Cooperate with other international, multistate, regional, federal, state, and local efforts aimed at providing resources or assistance to economic development;

(12) Work with communities and regions to develop ongoing processes focused on the creation and recruitment of new businesses and the retention of existing businesses;

(13) Utilize all available means of securing financing for business development statewide;

(14) Serve as the state's focal point for the establishment of foreign trade zones under the programs offered by the Unites States Department of Commerce;

(15) Promote innovation and the commercialization of ideas into viable Arkansas businesses;

(16) Highlight the state's ability to host film projects and make available resources to assist in building the film industry in the state;

(17) Comply with procedures for the disposal of properties acquired by the commission;

(18) Administer the provisions of Amendment 27 to the Arkansas Constitution providing a limited exemption from certain tax liabilities; and

(19) Carry out any other duties or responsibilities as designated by the Governor.

(b) The commission may:

(1) Contract and be contracted with;

(2) Purchase, lease, rent, sell, and receive bequests or donations of real, corporeal, or personal property from any lawful source;

(3) Establish and maintain international offices, as approved by the Arkansas Economic Development Council, to assist with the export of Arkansas-produced goods and services as well as foreign direct investment, either through the use of contractual employees or other means;

(4) Conduct studies as necessary to assess any economic development need or asset; and

(5) Promulgate rules necessary to implement the programs and services offered by the commission.

History. Acts 1955, No. 404, § 8; 1971, No. 443, § 1; 1979, No. 65, § 4; A.S.A. 1947, § 9-511; Acts 2013, No. 1185, § 1.

A.C.R.C. Notes. Acts 2013, No. 1395, § 15, provided: "MULTI-USE FACILITIES. The Arkansas Economic Development Commission (AEDC) shall structure its annual update to the Five Year Consolidated Plan and the new Five Year Consolidated Plan to reflect the legislative intent for a priority to be placed on the use of Community Development Block Grant (CDBG) funds for Multi-use facilities that will offer combined facilities for programs commonly offered in separate facilities such as senior centers, public health centers, childcare centers and community centers. AEDC shall report the methodology for complying with this priority to the Legislative Council. The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Acts 2013, No. 1395, § 16, provided: "PUBLIC PARTICIPATION. Arkansas Economic Development Commission (AEDC) shall make additional efforts to increase non-traditional public participation in its annual update to the Five Year

Consolidated Plan and the new Five Year Consolidated Plan. These efforts shall be in addition to current public notification methods. Notification should be considered through direct mail-out to mayors and county judges, contacts with planning and development districts, contact with the Department of Rural Services, submissions to grant notification publications, and publication on AEDC's web page. AEDC is encouraged to develop additional innovative public awareness strategies. The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Amendments. The 2013 amendment substituted "Functions" for "Additional functions" in the section heading; added (b); rewrote (a)(1) through (12); and added (a)(13) through (19).

15-4-210. Arkansas Economic Development Commission — Foreign operation — Reports.

(a) The Arkansas Economic Development Commission may engage the services of contract employees to promote the development of:

(1) Foreign direct investment in the state;

(2) Increased trade with foreign countries; and

(3) Improved relations with countries with which the state currently trades and countries that present future opportunities for enhanced economic development in the state.

(b) The commission may establish an Arkansas operation in any country approved by the Governor and the Arkansas Economic Development Council.

(c) The commission shall report the progress of any foreign offices annually to the Legislative Council, the Legislative Joint Auditing Committee, and the Governor.

History. Acts 1989 (1st Ex. Sess.), No. 280, § 33; 1995, No. 589, § 1; 1997, No. 540, § 21; 2013, No. 1185, § 1.

A.C.R.C. Notes. Acts 2013, No. 1395, § 14, provided: "FOREIGN OFFICE OPERATIONS. The Arkansas Economic Development Commission is hereby authorized to enter into contractual arrangements with private and/or public companies, corporations, individuals or organizations for the purpose of operating foreign offices. Arkansas Code 15-4-211 shall not be deemed restrictive in its language so as to preclude the use of standard Professional Services Contracts for the operation of the foreign offices and/or payment of such contracts from the special line items as established by legislative appropriation for the operation of said foreign offices. The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Amendments. The 2013 amendment substituted "Arkansas Economic Development Commission — Foreign operation — Reports" for "Overseas operation – Reports" in the section heading; rewrote (a); inserted present (b); redesignated former (b) as (c); and, in (c), substituted "commission" for "council" and "any foreign" for "these."

15-4-211 — 15-4-214. [Repealed.]

Publisher's Notes. These sections, concerning personnel of overseas program, the sale of property, rural development, and interagency contracts, were repealed by Acts 2013, No. 1185, § 1. The sections were derived from the following sources:

15-4-211. Acts 1975 (Extended Sess., 1976), No. 1015, § 2; 1983, No. 627, § 1; A.S.A. 1947, § 9-513.1; Acts 1989 (1st Ex.

Sess.), No. 280, §§ 31, 37; 1995, No. 589, § 2; 1997, No. 540, § 21.

15-4-212. Acts 1955, No. 404, § 12; A.S.A. 1947, § 9-515; Acts 1997, No. 250, § 96; 1997, No. 540, §§ 67, 68.

15-4-213. Acts 1987, No. 1069, § 1; 1997, No. 540, § 22.

15-4-214. Acts 1993, No. 1172, § 41; 1997, No. 540, § 22.

15-4-218. [Repealed.]

Publisher's Notes. This section, concerning access to industrial sites, was repealed by Acts 2013, No. 1185, § 1. The section was derived from Acts 1995, No. 418, § 3; 1997, No. 540, § 23.

15-4-219. Annual report.

The Arkansas Economic Development Commission shall present a report annually on the commission's work during the previous calendar year in these areas of concern:

(1) An accounting of:

(A) Each project that was offered incentives in the previous calendar year, including without limitation:

(i) The number of jobs proposed by each project and the average hourly wage or annual salary for each project;

(ii) For each job creation project that receives funds from the Economic Development Incentive Quick Action Closing Fund under § 19-5-1231, an indication of whether each project contains a repayment requirement;

(iii)*(a)* Each project that received funds from the Economic Development Incentive Quick Action Closing Fund under § 19-5-1231.

(b) The information reported in subdivision (1)(A)(iii)(a) of this section and any other related information shall be made available to the Office of Economic and Tax Policy upon request;

(iv) The location of each project; and

(v) The elements of the commission's incentive packages that were used;

(B) Each project that was offered incentives but that did not accept incentives, including without limitation:

(i) An assessment of the reasons why each offered project failed to open; and

(ii) Any proposals the General Assembly should consider that would have assisted the commission in its negotiations regarding each project;

(C) Each factory and plant that closed in the previous calendar year, including without limitation:

(i) The number of jobs lost as the result of the closure of each factory or plant;

(ii) The location of each factory or plant that closed; and

(iii) An assessment of the reasons for each factory or plant closing; and

(D) The commission's strategies and recommendations for the coming year, including:

(i) An assessment of the relative risk of loss of factories, plants, and jobs in the state; and

(ii) Plans for:

(a) Preventing future closings of factories and plants;

(b) Preventing future losses of jobs;

(c) Increasing the number of economic development proposals within the state;

(d) Drawing an increasing number of economic development proposals into the state; and

(e) Creating new incentives for economic development proposals; and

(2) The Executive Director of the Arkansas Economic Development Commission's assessment of the commission's performance, including without limitation a comparison to:

(A) The commission's performance over the past two (2) years;

(B) The commission's own projections; and

(C) Economic development in neighboring states.

History. Acts 2001, No. 1282, § 2; 2005, No. 1962, § 56; 2013, No. 1185, § 1.

Amendments. The 2013 amendment substituted "commission" for "council" and "project" for "program" throughout; in (1)(A), substituted "Each project that was offered incentives in" for "All projects completed" and added "without limitation"; rewrote (1)(A)(i); inserted present (1)(A)(ii) and (iii) and redesignated former (1)(A)(ii) and (iii) as present (1)(A)(iv) and (v); rewrote (1)(B) and (C); and, in (2), substituted "Executive Director of the Arkansas Economic Development Commission's" for "director's" and inserted "without limitation."

15-4-220. Audit of economic incentive programs.

(a) In order to provide information to the General Assembly regarding the benefits of certain economic incentive programs, the Division of Legislative Audit shall prepare annually a cost-benefit analysis of the projects provided incentives under the Consolidated Incentive Act of 2003, § 15-4-2701 et seq.

(b) The analysis may include without limitation:

(1) The dollar amount of incentives actually provided;

(2) The direct, indirect, and induced state tax benefits associated with each project, including without limitation:

(A) Estimated tax revenues;

(B) Full-time equivalent jobs created;

(C) Wages; and

(D) Investment; and

(3) The safeguards to protect noneconomic influences in the award of incentives.

(c)(1) The analysis required under subsection (a) of this section may be conducted on a rotating basis so that each project is evaluated at least one (1) time before the completion of the financial incentive agreement under the Consolidated Incentive Act of 2003, § 15-4-2701 et seq.

(2) If the staff of the division is insufficient to conduct the scheduled analysis in a given year, the executive committee of the Legislative Joint Auditing Committee may establish the priority and number of projects that can be reasonably analyzed with the available resources for a particular year.

(d)(1) All records, data, and other information from whatever source that the Legislative Auditor deems necessary in the examination of the incentive programs shall be made available to the division.

(2) However, this subsection does not authorize publication of information protected from publication by law.

(3) Records and information exempt from public disclosure shall remain exempt in the custody of the division.

(e) The division and the Arkansas Economic Development Commission shall enter into a memorandum of understanding concerning the need for common definitions and rules for evaluating economic incentive projects.

History. Acts 2005, No. 1769, § 1; 2013, No. 1185, § 1.

Amendments. The 2013 amendment, in (a), inserted "annually" and substituted "projects provided incentives" for "incentive programs provided"; substituted "without limitation" for "but not be limited to" in the introductory language of (b); rewrote (b)(2) and (c)(1); in (c)(2), substituted "If the staff of the division is" for "Should the division's staff be" and "projects" for "programs" and inserted "the" preceding "available"; substituted "this subsection does not authorize" for "nothing in this subsection authorizes or permits" in (d)(2); and added (e).

Subchapter 3 — Minority Business Economic Development Act

SECTION.
15-4-303. Definitions.

15-4-303. Definitions.

As used in this subchapter:

(1)(A) "Exempt" means goods and services classified as exempt for the purpose of administering this subchapter.

(B) The classification shall be determined by the Office of State Procurement of the Department of Finance and Administration and the Division of Minority Business Enterprise of the Arkansas Economic Development Commission and submitted to the Arkansas Economic Development Council for its review and consideration for the purposes of this subchapter;

(2) "Minority" means a lawful permanent resident of this state who is:

(A) African American;

(B) Hispanic American;

(C) American Indian;

(D) Asian American;

(E) Pacific Islander American; or

(F) A service-disabled veteran as designated by the United States Department of Veterans Affairs;

(3) "Minority business enterprise" means a business that is at least fifty-one percent (51%) owned by one (1) or more minority persons as defined in this section;

(4) "Minority business officer" means the individual within each state agency with the responsibility for carrying out the intended purposes of this subchapter;

(5)(A) "Nonexempt" means goods and services classified as nonexempt for the purpose of administering this subchapter.

(B) The classification shall be determined by the office and the division and submitted to the council for its review and consideration for the purposes of this subchapter;

(6) "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any goods or services;

(7) "State agency" means a department, an office, a board, a commission, or an institution of this state, including a state-supported institution of higher education; and

(8) "State contract" means a state agreement, regardless of what it may be called, for the purchase of commodities and services and for the disposal of surplus commodities and services not otherwise exempt.

History. Acts 1977, No. 544, § 5; A.S.A. 1947, § 5-916.6; Acts 2003, No. 1814, § 2; 2009, No. 1222, § 3; 2011, No. 893, § 1.

Amendments. The 2011 amendment added (2)(F).

Subchapter 14 — Inventors' Assistance Act

SECTION.
15-4-1405. Annual report.

15-4-1405. Annual report.

(a) The Center for Prototype Development and Emerging Technologies shall submit an annual report based on the fiscal year on or before December 31 of each year to the Governor and shall file an electronic copy of the report with the Legislative Council to be reviewed by the House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental Affairs.

(b) The report shall include, but not be limited to:

(1) The number of proposals submitted for review and evaluation;

(2) The number of proposals accepted for development and the number rejected;

(3) The number of products patented;

(4) The number of products developed to the commercial state;

(5) The number of jobs created and preserved as a result of the manufacturing, marketing, packaging, warehousing, and distribution of products; and

(6) An estimate of the multiplier effect on the Arkansas economy as a result of jobs so created and preserved.

History. Acts 1991, No. 707, § 7; 1997, No. 324, § 2; 2013, No. 501, § 1.

Amendments. The 2013 amendment substituted "file an electronic copy of the report with" for "mail the report to" in (a).

Subchapter 20 — Digital Product and Motion Picture Industry Development Act of 2009

SECTION.
15-4-2003. Definitions.
15-4-2005. Production rebate.
15-4-2006. Postproduction rebate.
15-4-2007. Application for rebate.
15-4-2008. Disbursement of rebate incentive.

15-4-2003. Definitions.

As used in this subchapter:

(1) "Application for rebate" means the document required by the Film Office to begin the process for obtaining a rebate under this subchapter;

(2)(A) "Below-the-line employees" means employees involved with the production of a motion picture production, including without limitation:

(i) Casting assistants;

(ii) Costume design;

(iii) Gaffers;

(iv) Grips;

(v) Location managers;

(vi) Production assistants;

(vii) Set construction staff; and

(viii) Set design staff.

(B) "Below-the-line employees" does not include directors and producers;

(3)(A) "Film and digital product" means video images or other visual media entertainment content.

(B) "Film and digital product" includes without limitation:

(i) Motion pictures;

(ii) Documentaries;

(iii) Long-form programs, specials, miniseries, series, music videos, and television programming;

(iv) Interactive television;

(v) Interactive games;

(vi) Video games;

(vii) Commercials;

(viii) Digital media created primarily for distribution or exhibition to the general public; and

(ix) A trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in either a product or a qualified production through any means and media in a digital media format, film, or videotape if the program meets all the underlying criteria of a qualified production;

(4) "Film Office" means the division of the Arkansas Economic Development Commission charged with the responsibility of promoting and assisting the digital content industry in Arkansas in order to enhance Arkansas as a land of opportunity for digital and motion picture filmmaking;

(5) "Financial institution" means any bank or savings and loan association in the state that carries Federal Deposit Insurance Corporation insurance;

(6)(A) "Highly compensated individual" means an individual who directly or indirectly receives compensation in excess of five hundred thousand dollars ($500,000) for personal services with respect to a single production.

(B) An individual receives compensation indirectly when a production company pays a personal service company or an employee-leasing company that pays the individual;

(7)(A) "Postproduction" means a final stage in the production of digital content occurring after the action has been filmed or videotaped and involves editing and the addition of soundtracks.

(B) "Postproduction" includes without limitation editing, music, soundtracks, special effects, and credits;

(8) "Postproduction costs" means all expenditures associated with the postproduction phase of a state-certified production within the state;

(9)(A) "Production" means the process of producing a type of entertainment content and includes film and digital product.

(B) "Production" shall not include:

(i) An ongoing program created primarily as news, weather, or financial market reports;

(ii) A production containing any material or performance that is obscene;

(iii) A production deemed an infomercial; or

(iv) Sexually explicit productions as defined in 18 U.S.C. § 2257, as it existed on January 1, 2009;

(10) "Production company" means a corporation, partnership, limited liability company, or other business entity engaged in the business of producing qualified productions and qualified by the Secretary of State to engage in business in the state;

(11)(A) "Qualified production costs" means costs associated with the development, preproduction, production, or postproduction of a qualified production within the state.

(B) "Qualified production costs" includes costs associated with original music compositions produced by an Arkansas resident to be used as incidental music, the score, or the soundtrack in film or video games.

(C) "Qualified production costs" includes the cost to option or purchase intellectual property, including without limitation books, scripts, music, or trademarks relating to the development or purchase of a script, screenplay, or format if:

(i) The intellectual property was produced primarily in Arkansas or the creator of the intellectual property is a resident of Arkansas;

(ii) At least seventy-five percent (75%) of the subsequent film or digital content is produced in Arkansas; and

(iii) The production expenses or costs for the optioning or purchase are less than twenty-five percent (25%) of the production expenses or costs incurred in Arkansas. The expenses or costs include all expenditures associated with the optioning or purchase of intellectual property, including option money, agent fees, and attorney's fees relating to the transaction but do not include deferrals, deferments, royalties, profit participation, or recourse or nonrecourse loans that the eligible production company may negotiate in order to obtain the rights to the intellectual property.

(D) "Qualified production costs" does not include:

(i) The optioning or purchase of intellectual property that does not comply with the provisions of subdivision (8)(A) of this section;

(ii) Media buys, promotional events, or gifts or public relations associated with the promotion or marketing of any qualified production;

(iii) Deferred, leveraged, or profit participation costs relating to any and all personnel associated with any and all aspects of the production, including without limitation producer fees, director fees, talent fees, and writer fees; and

(iv) Amounts paid to persons or businesses as a result of their participation in profits from the exploitation of the qualified production;

(12) "Resident" means natural persons and includes, for the purpose of determining eligibility for the rebate incentive provided by this subchapter, a person domiciled in Arkansas and any other person who maintains a permanent residence within the state and spends in the aggregate at least six (6) months of the taxable year within the state; and

(13) "State-certified production" means a qualified production produced by an eligible production company that is:

(A) In compliance with established rules to this subchapter;

(B) Authorized by the Film Office to conduct business in this state; and

(C) Approved by the Film Office as qualifying for a production rebate under this subchapter.

History. Acts 1997, No. 919, § 3; 2009, No. 816, § 1; 2013, No. 496, §§ 1-6.

Amendments. The 2013 amendment added new (1) and redesignated existing subdivisions; in present (2)(B), deleted "actors" preceding "directors" and "and writers" following "producers"; in present (4), substituted "Commission" for "Council" and added "in order to enhance Arkansas as a land of opportunity for digital and motion picture filmmaking"; in present (8), substituted "associated with" for "incurred in the state in" and added "within the state"; in present (11)(A), substituted "associated with" for "incurred in Arkansas in" and added "within the state" at the end; in (11)(B), substituted "associated with" for "incurred concerning"; in

(11)(D)(iii), substituted "without limitation" for "but not limited to"; deleted (11)(D)(v); and added (13).

15-4-2005. Production rebate.

(a)(1) A production company, upon approval of the application by the Arkansas Economic Development Commission, shall be eligible for a rebate of twenty percent (20%), with no cap per production, on all qualified production costs in connection with the production of a state-certified film project.

(2) An additional rebate of ten percent (10%) shall be granted for the payroll of below-the-line employees who are full-time residents of Arkansas.

(b) To qualify for this rebate, a production company shall spend at least two hundred thousand dollars ($200,000) within a six-month period in connection with the production of one (1) project.

(c) A production rebate shall not be processed until the production company has met in full all obligations to each Arkansas institution and vendor owed for products or services in the state.

History. Acts 1997, No. 919, § 5; 2009, No. 816, § 1; 2013, No. 496, § 7.

Amendments. The 2013 amendment substituted "twenty percent (20%)" for "fifteen percent (15%)" in (a)(1); rewrote (b); and added (c).

15-4-2006. Postproduction rebate.

(a)(1) A qualifying production company, upon approval of the application by the Arkansas Economic Development Commission, shall be eligible for a rebate of twenty percent (20%), with no cap per production, on all qualified production costs in connection with the postproduction of a state-certified film project.

(2) An additional rebate of ten percent (10%) shall be granted for the payroll of below-the-line employees who are full-time residents of Arkansas.

(b) To qualify for this rebate, a production company must spend at least fifty thousand dollars ($50,000) within a six-month period in connection with the production of one (1) project.

(c) A postproduction rebate shall not be processed until the production company has met in full all obligations to each Arkansas institution and vendor owed for products or services in the state.

History. Acts 2009, No. 816, § 1; 2013, No. 496, § 7.

Amendments. The 2013 amendment substituted "twenty percent (20%)" for "fifteen percent (15%)" in (a)(1); and added (c).

15-4-2007. Application for rebate.

(a)(1) To qualify for the rebates provided under this subchapter, a production company shall submit an application and provide an esti-

mate of total expenditures to be made in Arkansas in connection with the production.

(2) The application and estimate of expenditures shall be filed with the Arkansas Economic Development Commission and be approved as eligible for the rebate provided by this subchapter before the commencement of production in Arkansas.

(b)(1) After each production company submits an application, the commission shall sign a financial incentive agreement with each eligible production company that qualifies under this subchapter and is approved by the commission.

(2)(A) The financial incentive agreement shall define the benefits to be received and the start and end date of the project.

(B) The financial incentive agreement shall include the:

(i) Effective date of the agreement;

(ii) Term of the agreement, which shall be calculated from the date the agreement is signed by the production company and the Director of the Arkansas Economic Development Commission;

(iii) Incentive for which the production company may qualify;

(iv) Investment threshold requirements necessary to qualify for eligibility;

(v) Production company's responsibilities for certifying eligibility requirements; and

(vi) Production company's responsibilities for failure to meet or maintain eligibility requirements.

(c) At the time the production company registers and provides the estimate of expenditures to the commission, the production company also shall designate a member or representative to work with the commission and the Film Office on the reporting of expenditures and other information necessary to qualify for the rebate.

(d) No later than one hundred eighty (180) days after the last production expenses or costs are incurred in the production of a qualified production, the production company shall:

(1) Apply to the commission for a production rebate certificate; and

(2) Provide a final expenditure report that includes the amount of the company's production expenses or costs.

(e)(1) Production companies are encouraged to make payments for production and post-production expenses from a checking account from an Arkansas financial institution.

(2) Direct cash payments by a production company to Arkansas vendors, businesses, or citizens hired as cast or crew that are accompanied by receipts shall be allowed if the sum of the cash payments does not exceed forty percent (40%) of the total verifiable expenditures.

(3) The following are eligible expenditures:

(A) Per diem expenditures by the cast or crew for lodging when accompanied by receipts; and

(B) Fringe contributions being paid for work performed in this state, including:

(i) Health benefits;

(ii) Pension contributions;
(iii) Welfare contributions;
(iv) Stipends; and
(v) Living allowances.

(f) Expenditure reports also shall include information as required by the Revenue Division of the Department of Finance and Administration to ensure compliance with this subchapter.

(g) Payments for salaries or wages shall be eligible for the rebate if they are reported to the division and are subject to state income taxes.

(h)(1) The employment rebate also entitles a state-certified production for an additional rebate for employing full-time residents of Arkansas.

(2) The employment rebate authorizes an additional credit of ten percent (10%) for the aggregate payroll of salaries and wages to Arkansas residents who are below-the-line employees of the state-certified production.

(i) The employment rebate shall include the first five hundred thousand dollars ($500,000) of a highly compensated individual's salary.

(j) Payments for penalties or fines, payments to nonprofit organizations, and payments to federal and state entities that do not pay state taxes are not eligible.

(k) If a production company hires a payroll service company to handle the payroll of a production, the payroll payments otherwise allowable shall be allowed as eligible expenditures if all eligible income payments to employees and independent contractors done through the payroll service are subject to Arkansas state income taxes.

(l)(1)(A) Within two (2) weeks after principal photography begins, the production company shall begin filing weekly expenditure reports.

(B) Failure to file weekly expenditure reports may result in a delay in the disbursement of the rebate provided in §§ 15-4-2005 and 15-4-2006.

(2) The weekly expenditure report shall be filed in accordance with but shall not be limited to the following:

(A) Direct cash payments by the production company to Arkansas vendors, businesses, or citizens hired as cast or crew that are accompanied by receipts shall be allowed if the sum of those cash payments does not exceed forty percent (40%) of the total verifiable expenditures;

(B) Per diem expenditures by cast or crew, or both, for lodging, when accompanied by receipts, shall be eligible expenditures; and

(C) Expenditure reports shall include without limitation:
(i) Check identification number;
(ii) Date of payment;
(iii) Name of payee;
(iv) Address of payee;
(v) Amount paid; and

(vi) Other information the division deems necessary to ensure compliance with this subsection.

(m) When a production company hires a food catering service company that is located outside the state, payments otherwise allowable that are made by the out-of-state food catering service to food businesses located in Arkansas shall be allowed as eligible expenditures.

(n)(1) Upon completion of filming or production, or both, in Arkansas, the production company shall file an application for the rebate allowed under this subchapter.

(2) The application for rebate shall include a proof of performance expenditure list that provides the total amount of expenditures that were made in the state in connection with the filming or production, or both, of a film and digital product that complies with this subchapter.

(3) The production company shall provide documentation for expenditures in accordance with rules promulgated by the Film Office.

History. Acts 1997, No. 919, § 6; 2009, No. 816, § 1; 2013 No. 496, § 7.

Amendments. The 2013 amendment rewrote the section.

15-4-2008. Disbursement of rebate incentive.

(a) The Revenue Division of the Department of Finance and Administration shall upon receipt of an application for a rebate, including a proof of performance expenditure report from the Film Office:

(1) Calculate the total expenditures of the relevant production company for which there are documented receipts for funds expended in the state;

(2) Calculate the incentive benefit to which the applicant is entitled; and

(3) Provide certification to the Director of the Department of Finance and Administration specifying the amount to be remitted to the production company within one hundred twenty (120) days after the final expenditure report has been submitted.

(b) The director, within ten (10) working days after the receipt of the certification from the division, shall remit the rebate to:

(1) The production company; or

(2) At the option of the production company, the full amount or a specified amount noted by the production company to the:

(A) National Film Preservation Foundation;

(B) Motion Picture Retirement Fund; or

(C) Digital Product and Motion Picture Office Fund.

(c)(1) There is no per-production cap on the rebate, and the amount of the rebate shall be limited only by the amount of moneys in the Digital Product and Motion Picture Office Fund.

(2) The rebate shall be awarded on a first-come, first-served basis.

(3) Rebates to be awarded from the Digital Product and Motion Picture Office Fund may be payable from any source of funds allocated for the rebates.

History. Acts 1997, No. 919, § 7; 2009, No. 816, § 1; 2013, No. 496, § 7.

Amendments. The 2013 amendment rewrote the introductory language of (a); substituted "one hundred twenty (120) days" for "ninety (90) days" in (a)(3); deleted "fifteen-percent" preceding "rebate" in the introductory language of (b); and added (c)(3).

Subchapter 22 — Arkansas Workforce Investment Act

SECTION.
15-4-2205. Arkansas Workforce Investment Board Executive Committee.
15-4-2206. Powers and duties of Arkansas Workforce Investment Board.
15-4-2209. Local workforce investment boards to be established.
15-4-2211. Powers and duties of local workforce investment board.

15-4-2205. Arkansas Workforce Investment Board Executive Committee.

(a) In order to comply with the requirements and responsibilities assigned within this subchapter, the Arkansas Workforce Investment Board shall select from its membership an executive committee to be composed of at least thirteen (13) members but no more than fifteen (15) members.

(b) The chair and vice chair of the board shall serve as the chair and vice chair of the Arkansas Workforce Investment Board Executive Committee, respectively.

(c) The membership of the executive committee shall include:

(1) At least seven (7) business members, at least one (1) of whom serves on a local workforce investment board;

(2) At least two (2) Arkansas labor federation representatives;

(3) At least one (1) community college representative; and

(4) At least one (1) chief elected official.

(d) The board shall form such other committees as needed.

(e) Membership on any committee shall not extend beyond the term of service on the board.

(f) The executive committee shall meet as needed between the quarterly board meetings at the call of the chair of the executive committee or upon the request of seventy-five percent (75%) of the executive committee members, and the chair of the executive committee shall report any actions of the executive committee to the board at the quarterly meetings.

(g) Compensation for the members of the executive committee shall be as provided in § 15-4-2204(i).

History. Acts 1999, No. 1125, § 5; 2005, No. 1171, § 1; 2005, No. 1962, § 60; 2007, No. 827, § 131; 2011, No. 818, § 1.

Amendments. The 2011 amendment rewrote (f).

15-4-2206. Powers and duties of Arkansas Workforce Investment Board.

(a) The Arkansas Workforce Investment Board shall advise and assist the Governor and the General Assembly in the:

(1) Development of a state workforce development plan;

(2) Development and continuous improvement of a statewide system of activities that are funded under this subchapter or carried out through a one-stop delivery system which receives funds under this subchapter including:

(A) Development of linkages in order to assure coordination and nonduplication among the programs and activities; and

(B) Review of local plans;

(3) [Repealed.]

(4) Designation of local workforce investment areas;

(5) Development of an allocation formula for the distribution of funds for adult employment and training activities and youth activities to local areas;

(6) Development and continuous improvement of comprehensive state performance measures, including state adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the state;

(7) Preparation of the annual report to the United States Secretary of Labor;

(8) Development of a statewide employment statistics system as described in section 15(e) of the Wagner-Peyser Act;

(9) Development of an application for an incentive grant;

(10) Recommendation of the programs identified in § 15-4-2207(b)(8)(A) which may be consolidated or realigned;

(11) Creation of workforce investment program accountability measures and standards;

(12) Development of workforce training standards;

(13) Evaluation of the entire Arkansas workforce investment system, including, but not limited to, the education system, the career development system, and the youth programs, to determine if it is meeting the goals of this subchapter;

(14) Reevaluation of this subchapter;

(15) Coordination of state agencies to assist in the development of the state workforce development plan;

(16) Development of additional state workforce development plans every three (3) years;

(17) Use of federal, state or private funds, donations, and grants made available for the development of the Arkansas workforce development plan;

(18) Establishing procedures that will be taken by the state to assure coordination of and to avoid duplication among workforce investment programs; and

(19) Provide a report prior to each regular session to the General Assembly with recommendations for appropriate statutory changes

which may enhance the delivery of workforce investment in and for Arkansas.

(b) The board may recommend to the Governor the resolution of any disagreements between or among state agencies pertaining to their duties and responsibilities in the state workforce investment plan. The board shall notify the agencies involved of the recommendation in writing.

(c) The board may recommend to the Governor that he or she require state agencies to cooperate with the board in implementing the state workforce investment plan, including, but not limited to, providing information to the board and providing staff assistance.

(d) The board shall have the authority to promulgate any rules or regulations necessary to carry out the provisions of this subchapter and to comply with the federal Workforce Investment Act of 1998.

(e) The board shall present a report quarterly to the Legislative Council concerning the progress, performance, and compliance with the federal Workforce Investment Act of 1998 and this subchapter and shall provide to the Legislative Council any information requested of it.

(f) Based upon measures established through subdivision (a)(11) of this section, the board shall recommend performance incentives and shall recommend sanctions for failure to achieve such measures.

(g)(1) The Director of the Arkansas Workforce Investment Board shall be appointed by the Governor with the consent of the board and be subject to confirmation by the Senate.

(2) The director shall hire the necessary staff to carry out the provisions of this subchapter.

History. Acts 1999, No. 1125, § 6; 2013, No. 1149, § 1.

Amendments. The 2013 amendment repealed (a)(3).

15-4-2209. Local workforce investment boards to be established.

(a) There shall be established by January 15, 2000, in each local area of the state and certified by the Governor a local workforce investment board to set policy for the portion of the statewide workforce investment system within the local area.

(b) The Governor in partnership with the Arkansas Workforce Investment Board shall establish criteria for use by chief elected officials in the local areas for appointment of members of the local boards.

(c) At a minimum, the criteria shall require that the membership of each local board include representatives in the local area who are representatives of:

(1) Businesses in the local area who:

(A) Are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with policymaking or hiring authority;

(B) Represent businesses with employment opportunities that reflect the employment opportunities of the local area; and

(C) Are appointed from among individuals nominated by local business organizations and business trade associations;

(2) Local educational entities, including:

(A) Local educational agencies;

(B) Local school boards;

(C) Two-year colleges and universities;

(D) Entities providing adult education and literacy activities; and

(E) Postsecondary educational institutions, selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing local educational entities;

(3) Labor organizations nominated by Arkansas local labor federations or other representatives of employees if no employees are represented by labor organizations;

(4) Community-based organizations;

(5) Economic development agencies, including private sector economic development entities;

(6) Each of the one-stop partners;

(7) One (1) member who:

(A) Is an individual with a disability and is familiar with vocational rehabilitation; and

(B)(i) Represents an organization of Arkansans with disabilities; or

(ii) Complies with subdivision (c)(1) of this section; and

(8) One (1) member who represents veterans' organizations.

(d) A majority of the members of the local board shall be representatives described in subdivision (c)(1) of this section.

(e) The chief elected official shall ensure that the local board membership shall reflect the same percentage of minorities as in the 2000 Federal Decennial Census for the local workforce investment areas of the board.

(f) The local board shall elect a chair for the local board from among the representatives described in subsection (c) of this section.

(g)(1) The chief elected official in a local area is authorized to appoint the members of the local board for the area in accordance with the state criteria.

(2) In the event a local area includes more than one (1) unit of general local government, the chief elected officials of the units shall execute an agreement that specifies the respective roles of the individual chief elected officials:

(A) In the appointment of the members of the local board from the individuals nominated or recommended to be the members in accordance with the criteria; and

(B) In carrying out any other responsibilities assigned to the officials under this section.

(3) If after a reasonable effort the chief elected officials are unable to reach agreement, the Governor may appoint the members of the local board from individuals so nominated or recommended.

(h) The local board may include other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

History. Acts 1999, No. 1125, § 9; 2003, No. 1758, § 2; 2011, No. 818, § 2.

Amendments. The 2011 amendment added (c)(2); deleted (h) and redesignated the following subsection accordingly; and substituted "local board" for "council" in present (h).

15-4-2211. Powers and duties of local workforce investment board.

(a) The functions of the local board shall include the following:

(1) Development of a local plan in accordance with § 15-4-2212;

(2) The local board, with the agreement of the chief elected official:

(A) Shall designate or certify one-stop operators; and

(B) May terminate for cause the eligibility of the operators;

(3) The local board shall identify eligible providers of youth activities in the local area by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council;

(4) The local board shall identify eligible providers of training services using criteria established by the state;

(5) If the one-stop operator does not provide intensive services in a local area, the local board shall identify eligible providers of intensive services in the local area;

(6) The local board shall develop a budget for the purpose of carrying out the duties of the local board under this section, subject to the approval of the chief elected official; and

(7) The local board annually shall provide a progress report to the Arkansas Workforce Investment Board.

(b) The chief elected official in a local area shall serve as the local grant recipient for and shall be liable for any misuse of the grant funds allocated to the local area, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear the liability.

(c) In order to assist in the administration of the grant funds, the chief elected official or the Governor, when the Governor serves as the local grant recipient for a local area, may designate an entity to serve as a local grant subrecipient for the funds or as a local fiscal agent. The designation shall not relieve the chief elected official or the Governor of the liability for any misuse of grant funds.

(d) The local grant recipient or an entity shall disburse the funds for workforce investment activities at the direction of the local board, pursuant to the requirements of this subchapter. The local grant recipient or entity shall disburse the funds immediately on receiving the direction from the local board.

(e) The local board may contract for some or all of its administrative services in an amount consistent with the grant, but in no case shall the cost of administrative services exceed ten percent (10%) of the total cost of the program.

(f) The local board may solicit and accept grants and donations from sources other than federal funds.

(g) The local board, in partnership with the chief elected official, shall conduct oversight with respect to local programs of youth activities, local adult employment and training, and the one-stop delivery system in the local area.

(h) The local board, the chief elected official, and the Governor shall negotiate and reach an agreement on local performance measures.

(i) The local board shall assist the Governor in developing the statewide employment statistics system described in section 15(e) of the Wagner-Peyser Act, as effective on September 1, 1999.

(j) The local board shall coordinate the workforce investment activities carried out in the local area with economic development strategies and develop other employer linkages with the activities.

(k) The local board shall promote the participation of private sector employers in the statewide workforce investment system and ensure the effective provision through the system of connecting, brokering, and coaching activities through intermediaries like the one-stop operator in the local area or through other organizations to assist the employers in meeting hiring needs.

(l)(1) No local board may provide training services unless pursuant to a request from the Governor the local board grants a written waiver of the prohibition for a program of training services, if the local board:

(A) Submits to the Governor a proposed request for the waiver that includes:

(i) Satisfactory evidence that there is an insufficient number of eligible providers of the program of training services to meet local demand in the local area; and

(ii) Information demonstrating that:

(a) The local board meets the requirements for an eligible provider of training services; and

(b) The program of training services prepares participants for an occupation that is in demand in the local area;

(B) Makes the proposed request available to eligible providers of training services and other interested members of the public for a public comment period of not less than thirty (30) calendar days; and

(C) Includes in the final request for a waiver the evidence and information described in subdivisions (l)(1)(A) and (B) of this section.

(2) A waiver granted to a local board shall apply for a period not to exceed one (1) year. The waiver may be renewed for additional periods not to exceed one (1) year, pursuant to requests from the local board.

(3) The Governor may revoke a waiver granted if the state determines that the local board involved has engaged in a pattern of inappropriate referrals to training services operated by the local board.

(m) Nothing in this section shall be construed to provide a local board with the authority to mandate curricula for schools.

(n) A member of a local board may not:

(1) Vote on a matter under consideration by the local board:

(A) Regarding the provision of services by the member or by an entity that the member represents; or

(B) That would provide direct financial benefit to the member or the immediate family of the member; or

(2) Engage in any other activity determined by the Governor or by law to constitute a conflict of interest as specified in the state plan.

(o)(1) There shall be established as a subgroup within each local board a youth council appointed by the local board, in cooperation with the chief elected official for the local area.

(2)(A) The membership of each youth council shall include:

(i) Members of the local board with special interest or expertise in youth policy;

(ii) Representatives of youth service agencies, including juvenile justice and local law enforcement agencies;

(iii) Representatives of local public housing authorities;

(iv) Parents of eligible youth seeking assistance under this subchapter;

(v) Individuals, including former participants, and representatives of organizations that have experience relating to youth activities; and

(vi) Representatives of the Job Corps, as appropriate.

(B) The membership of each youth council may include other individuals as the chair of the local board, in cooperation with the chief elected official, determines to be appropriate.

(3) Members of the youth council who are not members of the local board shall be voting members of the youth council and nonvoting members of the board.

(4) The duties of the youth council include:

(A) Developing the portions of the local plan relating to eligible youth, as determined by the chair of the local board;

(B) Subject to the approval of the local board:

(i) Recommending eligible providers of youth activities, to be awarded grants or contracts on a competitive basis by the local board to carry out the youth activities; and

(ii) Conducting oversight with respect to the eligible providers of youth activities in the local area;

(C) Coordinating youth activities in the local area; and

(D) Other duties determined to be appropriate by the chair of the local board.

(p) A local board may provide core services or intensive services, or both, as defined in the federal Workforce Investment Act of 1998, or may be designated or certified as a one-stop operator, only with the agreement of the chief elected official or officials and the Governor.

History. Acts 1999, No. 1125, § 11; 2011, No. 818, § 3.

Amendments. The 2011 amendment substituted "ten percent (10%)" for "fifteen percent (15%)" in (e).

Subchapter 27 — Consolidated Incentive Act of 2003

SECTION.
15-4-2703. Definitions.

15-4-2703. Definitions.

As used in this subchapter:

(1) "Applied research" means any activity that seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specific problem, question, or issue;

(2)(A) "Average hourly wage" means the amount obtained when payroll, as defined in this section, is divided by the number of hours worked to earn the payroll.

(B) For the purpose of subdivision (2)(A) of this section, forty (40) hours per week shall be used as the number of hours worked for a salaried employee;

(3) "Basic research" means any original investigation for the advancement of scientific or technological knowledge;

(4) "Commission" means the Arkansas Economic Development Commission;

(5) "Contractual employee" means an employee who:

(A) May be included in the payroll calculations of a business qualifying for benefits under this subchapter and is under the direct supervision of the business receiving benefits under this subchapter, but is an employee of a business other than the one receiving benefits under this subchapter;

(B) Otherwise meets the requirements of a new full-time permanent employee of the business receiving benefits under this subchapter; and

(C) Receives a benefits package comparable to direct employees of the business receiving benefits under this subchapter;

(6)(A) "Corporate headquarters" means the facility or portion of a facility where corporate staff employees are physically employed and where the majority of the company's financial, personnel, legal, planning, information technology, or other headquarters-related functions are handled either on a regional basis or a national basis.

(B) A corporate headquarters must be a regional corporate headquarters or a national corporate headquarters;

(7)(A) "County or state average hourly wage" means the weighted average weekly earnings for Arkansans in all industries, both statewide and countywide, as calculated by the Department of Workforce Services in its most recent "Annual Covered Employment and Earnings" publication, divided by forty (40).

(B) The average hourly wage threshold determined at the signing date of the financial incentive agreement shall be the threshold for the term of the agreement;

(8) "Director" means the Director of the Arkansas Economic Development Commission;

(9) "Distribution center" means a facility for the reception, storage, and shipping of:

(A) A business's own products or products that the business wholesales to retail businesses or ships to its own retail outlets if seventy-five percent (75%) of the sales revenues are from out-of-state customers;

(B) Products owned by other companies with which the business has contracts for storage and shipping if seventy-five percent (75%) of the sales revenues of the product owner are from out-of-state customers; or

(C) Products for sale to the general public if seventy-five percent (75%) of the sales revenues are from out-of-state customers;

(10) "Eligible businesses" means nonretail businesses engaged in commerce for profit that meet the eligibility requirements for the applicable incentive offered by this subchapter and fall into one (1) or more of the following categories:

(A) Manufacturers classified in sectors 31-33 in the North American Industry Classification System, as in effect January 1, 2003;

(B)(i) Businesses primarily engaged in the design and development of prepackaged software, digital content production and preservation, computer processing and data preparation services, or information retrieval services.

(ii) All businesses in this group shall derive at least seventy-five percent (75%) of their sales revenue from out of state;

(C)(i) Businesses primarily engaged in motion picture productions.

(ii) All businesses in this group shall derive at least seventy-five percent (75%) of their sales revenue from out of state;

(D) Distribution centers or intermodal facilities;

(E) Office sector businesses;

(F) National or regional corporate headquarters, North American Industry Classification System Code 551114, as in effect January 1, 2005;

(G) Firms primarily engaged in commercial, physical, and biological research as classified in the North American Industry Classification System Code 541710, as in effect January 1, 2005;

(H)(i) Scientific and technical services businesses.

(ii)*(a)* All businesses in this group shall derive at least seventy-five percent (75%) of their sales revenue from out of state.

(b)(1) The average hourly wages paid by businesses in this group shall exceed one hundred fifty percent (150%) of the county or state average hourly wage, whichever is less.

(2) The average hourly wage threshold determined at the signing date of the financial incentive agreement shall be the threshold for the term of the agreement; and

(I) The Director of the Arkansas Economic Development Commission may classify a nonretail business as an eligible business if the following conditions exist:

(i) The business receives at least seventy-five percent (75%) of its sales revenue from out of state; and

(ii) The business proposes to pay wages in excess of one hundred ten percent (110%) of the county or state average hourly wage, whichever is less;

(11) "Equity investment" means capital invested in common or preferred stock, royalty or intellectual property rights, limited partnership interests, limited liability company interests, and any other securities or rights that evidence ownership in private businesses, including a federal agency's award of a Small Business Innovative Research grant or a Small Business Technology Transfer grant;

(12)(A) "Existing employees" means those employees hired by the business before the date the financial incentive agreement was signed.

(B) Existing employees may be considered new full-time permanent employees only if:

(i) The position or job filled by the existing employee was created in accordance with the signed financial incentive agreement; and

(ii) The position vacated by the existing employee was either filled by a subsequent employee or no subsequent employee will be hired because the business no longer conducts the particular business activity requiring that classification.

(C) If the Director of the Arkansas Economic Development Commission and the Director of the Department of Finance and Administration find that a significant impairment of Arkansas job opportunities for existing employees will otherwise occur, they may jointly authorize the counting of existing employees as new full-time permanent employees;

(13) "Facility" means a single physical location at which the eligible business is conducting its operations;

(14) "Financial incentive agreement" means an agreement entered into by an eligible business and the commission to provide the business an incentive to locate a new business or to expand an existing business in Arkansas;

(15) "Fund" means the Economic Development Incentive Fund;

(16) "Governing authority" means the quorum court of a county or the governing body of a municipality;

(17)(A)(i) "In-house research" means applied research supported by the business through the purchase of supplies for research activities and payment of wages and usual fringe benefits for employees of the business who conduct research activities in research facilities:

(a) Dedicated to the conduct of research activities;

(b) Operated by the business; and

(c) Performed primarily under laboratory, clinical, or field experimental conditions for the purpose of reducing a concept or idea to practice or to advance a concept or idea or improvement thereon to the point of practical application.

(ii) "In-house research" includes:

(a) Experimental or laboratory activity to develop new products, improve existing products, or develop new uses of products, but only to the extent that activity is conducted in Arkansas; and

(b) A contractual agreement with a state college, state university, or other research organization to perform research for a targeted business if the President of the Arkansas Science and Technology Authority makes a written determination before the research is performed that the research is essential to the core function of the targeted business.

(B) "In-house research" does not include tests or inspections of materials or products for quality control, efficiency surveys, management studies, other market research, or any other ordinary and necessary expenses of conducting business;

(18) "Intellectual property" means an invention, discovery, or new idea that the legal entity responsible for commercialization has decided to legally protect for possible commercial gain, based on the disclosure of the creator;

(19) "Intermodal facility" means a facility with more than one (1) mode of interconnected movement of freight, commerce, or passengers;

(20) "Investment threshold" means the minimum amount of investment in project costs that must be incurred in order to qualify for eligibility;

(21) "Invests" or "investment" means money expended by or on behalf of an approved eligible business that seeks to begin or expand operations in Arkansas, and without this infusion of capital, the location or expansion may not take place;

(22) "Lease" means a right to possession of real property for a specific term in return for consideration, as determined in a lease agreement by both parties;

(23)(A) "Modernization" means an increase in efficiency or productivity of a business through investment in machinery or equipment, or both.

(B) "Modernization" does not include costs for routine maintenance or the installation of equipment that does not improve efficiency or productivity, except for expenditures for pollution control equipment mandated by state or federal laws or regulations;

(24) "National corporate headquarters" means the sole corporate headquarters in the nation that handles headquarters-related functions on a national basis;

(25)(A)(i) "New full-time permanent employee" means a position or job that was created pursuant to the signed financial incentive agreement and that is filled by one (1) or more employees or contractual employees who:

(a) Were Arkansas taxpayers during the year in which the tax credits or incentives were earned;

(b)(1) Work at the facility identified in the financial incentive agreement.

(2) New employees who do not work at the facility may be counted if they:

(A) Otherwise meet the definition of "new full-time permanent employee";

(B) Are subject to the Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et seq.; and

(C) Meet an average hourly wage threshold equal to or greater than the state average hourly wage for the preceding calendar year; and

(c) Are not existing employees, except as allowed under subdivision (12) of this section.

(ii) The position or job held by the employee or employees shall have been filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours per week.

(B) However, to qualify under this subchapter, a contractual employee shall be offered a benefits package comparable to a direct employee of the business seeking incentives under this subchapter;

(26) "Nonretail business" means a business that derives less than ten percent (10%) of its total Arkansas revenue from sales to the general public;

(27)(A) "Office sector business" means business operations that support primary business needs, including, but not limited to, customer service, credit accounting, telemarketing, claims processing, and other administrative functions.

(B) All businesses in this group must be nonretail businesses and derive at least seventy-five percent (75%) of their sales revenue from out of state;

(28) "Payroll" means the total taxable wages, including overtime and bonuses, paid during the preceding tax year of the eligible business to new full-time permanent employees hired after the date of the signed financial incentive agreement;

(29)(A) "Person" means an individual, trust, estate, fiduciary, firm, partnership, limited liability company, or corporation.

(B) "Person" includes:

(i) The directors, officers, agents, and employees of any person;

(ii) Beneficiaries, members, managers, and partners; and

(iii) Any county or municipal subdivision of the state;

(30) "Preconstruction costs" means the cost of eligible items incurred before the start of construction, including:

(A) Project planning costs;

(B) Architectural and engineering fees;

(C) Right-of-way purchases;

(D) Utility extensions;

(E) Site preparations;

(F) Purchase of mineral rights;

(G) Building demolition;

(H) Builders risk insurance;

(I) Capitalized start-up costs;

(J) Deposits and process payments on eligible machinery and equipment; and

(K) Other costs necessary to prepare for the start of construction;

(31)(A) "Project" means costs associated with the:

(i) Construction of a new plant or facility including, but not limited to, land, building, production equipment, or support infrastructure;

(ii) Expansion of an established plant or facility by adding to the building, production equipment, or support infrastructure; or

(iii) Modernization of an established plant or facility through the replacement of production or processing equipment or support infrastructure that improves efficiency or productivity.

(B) "Project" does not include:

(i) Expenditures for routine repair and maintenance that do not result in new construction or expansion;

(ii) Routine operating expenditures;

(iii) Expenditures incurred at multiple facilities; or

(iv) The purchase or acquisition of an existing business unless:

(a) There is sufficient documentation that the existing business was closed; and

(b) The purchase of the existing business will result in the retention of the jobs that would have been lost due to the closure.

(C) Eligible project costs must be incurred within four (4) years from the date a financial incentive agreement was signed by the commission;

(32) "Project plan" means a plan:

(A) Submitted to the commission containing such information as may be required by the Director of the Arkansas Economic Development Commission to determine eligibility for benefits; and

(B) That if approved is a supplement to the financial incentive agreement;

(33) "Qualified business" means an eligible business that:

(A) Has met the qualifications for one (1) or more economic development incentives authorized by this subchapter; and

(B) Has signed a financial incentive agreement with the commission or is involved in a research and development program administered by the Arkansas Science and Technology Authority;

(34) "Qualified research expenditures" means the sum of any amounts that are paid or incurred by an Arkansas taxpayer during the taxable year in funding a qualified research program that has been approved for tax credit treatment under rules and regulations promulgated by the commission;

(35) "Region" or "regional" means a geographic area comprising two (2) or more states, including this state;

(36)(A) "Regional corporate headquarters" means the location where a headquarters staff performs functions on a regional basis that involve the services of administration, planning, research and development, marketing, personnel, legal, computer, or telecommunications.

(B)(i) As used in subdivision (36)(A) of this section, "regional" means a geographic area composed of this state and a contiguous state.

(ii) However, a function on a regional basis does not include a function involving manufacturing, processing, warehousing, distributing, or wholesaling activities or the operation of a call center;

(37) "Research and development programs of the Arkansas Science and Technology Authority" means statutory programs operated by the Arkansas Science and Technology Authority under § 15-3-101 et seq.;

(38) "Research area of strategic value" means research in fields having long-term economic or commercial value to the state and that have been identified in the research and development plan approved from time to time by the Board of Directors of the Arkansas Science and Technology Authority;

(39) "Scientific and technical services business" means a business:

(A) Primarily engaged in performing scientific and technical activities for others, including:

(i) Architectural and engineering design;

(ii) Computer programming and computer systems design; and

(iii) Scientific research and development in the physical, biological, and engineering sciences;

(B) Selling expertise;

(C) Having production processes that are almost wholly dependent on worker skills;

(D) Deriving at least seventy-five percent (75%) of its sales revenue from out of state; and

(E) Paying average hourly wages that exceed one hundred fifty percent (150%) of the county or state average hourly wage, whichever is less;

(40) "Start of construction" means any activity that causes a physical change to the building or property, or both, identified as the site of the approved project, but excluding engineering surveys, soil tests, land clearing, and extension of roads and utilities to the project site;

(41) "Strategic research" means research that has strategic economic or long-term commercial value to the state and that is identified in the research and development plan approved from time to time by the Board of Directors of the Arkansas Science and Technology Authority;

(42) "Support infrastructure" means physical assets necessary for the business to operate including, but not limited to, water systems, wastewater systems, gas and electric utilities, roads, bridges, parking lots, and communication infrastructure;

(43)(A) "Targeted businesses" means a grouping of growing business sectors, not to exceed six (6), that include the following:

(i) Advanced materials and manufacturing systems;

(ii) Agriculture, food, and environmental sciences;

(iii) Biotechnology, bioengineering, and life sciences;

(iv) Information technology;

(v) Transportation logistics; and

(vi) Bio-based products.

(B) In order to receive benefits as a targeted business, the business must:

(i) Have been operating in the state for less than five (5) years;

(ii) Pay not less than one hundred fifty percent (150%) of the lesser of the county or state average hourly wage; and

(iii) Have been selected to receive special benefits; and

(44) "Tiers" means the ranking of the seventy-five (75) counties of Arkansas into four (4) divisions that delineate the economic prosperity of the counties and allow for different levels of benefits.

History. Acts 2003, No. 182, § 1; 2005, No. 1296, § 1; 2007, No. 1596, § 1; 2009, No. 716, §§ 3–5; 2011, No. 1197, § 1.

Amendments. The 2011 amendment inserted (25)(A)(i)(*b*)(*2*).

Subchapter 28 — Biodiesel Incentive Act

SECTION.
15-4-2803. Tax credit for biodiesel suppliers.

15-4-2803. Tax credit for biodiesel suppliers.

(a) There shall be allowed a credit against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., in an amount as determined in subsection (b) of this section to a biodiesel supplier for the cost of the facilities and equipment used directly in the wholesale or retail distribution of biodiesel fuels.

(b) The amount of the credit allowed shall be equal to five percent (5%) of the cost of the facilities and equipment.

(c) The costs of service contracts, sales tax, or acquisition of undeveloped land shall not be included in determining the amount of the credit.

(d)(1) No income tax credit shall be claimed by a supplier for any facility or equipment that is in use on or before the certification of the company for tax credits or for which a tax credit was previously claimed by a supplier for any other tax year.

(2) The provisions of this subsection shall not apply if any entity is sold and the entity is entitled to an income tax credit under this subchapter.

(3) The tax credit provided in subsection (b) of this section may be carried forward for a period not to exceed three (3) years.

(e) [Repealed.]

History. Acts 2003, No. 1287, § 1; 2005, No. 2223, § 2; 2006 (1st Ex. Sess.), No. 10, § 1; 2013, No. 1149, § 2.

Amendments. The 2013 amendment repealed (e).

Subchapter 32 — Arkansas Amendment 82 Implementation Act

SECTION.
15-4-3202. Definitions.
15-4-3203. Amendment 82 project qualification.
15-4-3206. Compliance time period — Audit requirements.
15-4-3221. Monitoring and reporting.

15-4-3202. Definitions.

As used in this subchapter:

(1) "Amendment 82 agreement" means a contract between the state and a sponsor under which the state is to provide Amendment 82 bond financing in exchange for the sponsor's agreeing to make an investment and to locate a new business or substantially expand an existing business in the State of Arkansas in accordance with the requirements of Arkansas Constitution, Amendment 82, and this subchapter. At a minimum, the agreement shall contain the following provisions:

(A) The infrastructure needs to be provided by the state in support of the qualified Amendment 82 project and financed under Arkansas Constitution, Amendment 82, and this subchapter;

(B) A description of all other economic incentives to be provided by the state in connection with the qualified Amendment 82 project;

(C) The commitments of the sponsor, if any, with regard to investment and job creation associated with the qualified Amendment 82 project, including timetables for meeting and maintaining any investment and job creation requirements;

(D) The agreement of the sponsor to make all specified records pertaining to the sponsor's commitments available for annual audit by the Chief Fiscal Officer of the State and, upon request, but no more often than annually, by the Office of Economic and Tax Policy of the Bureau of Legislative Research or a person or entity retained by the office;

(E) Performance benchmarks and economic goals of the qualified Amendment 82 project; and

(F) The penalties to be applied if the sponsor does not satisfy its commitments under the Amendment 82 agreement;

(2) "Average hourly wage" means the weekly earnings, excluding overtime, bonuses, and company-paid benefits, of all new full-time permanent employees hired after the execution date of the Amendment 82 agreement divided by forty (40) and then divided by the number of new full-time permanent employees;

(3) "Bonds" means general obligation bonds issued under Arkansas Constitution, Amendment 82, and this subchapter;

(4) "Chief Fiscal Officer of the State" means the Chief Fiscal Officer of the State of Arkansas, who is also the Director of the Department of Finance and Administration;

(5) "Contractual employee" means an employee who:

(A) May be included in the payroll calculations of a sponsor qualifying for bond financing under Arkansas Constitution, Amendment 82, and this subchapter and is under the direct supervision of the sponsor receiving benefits under Arkansas Constitution, Amendment 82, and this subchapter, but is an employee of a business other than the one receiving benefits under Arkansas Constitution, Amendment 82, and this subchapter;

(B) Otherwise meets the requirements of a new full-time permanent employee of the sponsor receiving benefits under Arkansas Constitution, Amendment 82, and this subchapter;

(C) Receives an average hourly wage that exceeds the lesser of:

(i) The county average hourly wage for the county in which the position or job is located; or

(ii) The state average hourly wage; and

(D) Receives a benefits package, including, without limitation, health and retirement benefits comparable to direct employees of the sponsor receiving benefits under Arkansas Constitution, Amendment 82, and this subchapter;

(6) "County average hourly wage" means the weighted average weekly earnings for Arkansas residents in all industries countywide as calculated by the Department of Workforce Services in its most recent "Annual Covered Employment and Earnings" publication, divided by forty (40);

(7) "Debt service" means principal, interest, redemption premiums, if any, and servicing fees relative to the bonds, including, without limitation:

(A) Trustees' fees;

(B) Paying agents' fees;

(C) Dissemination agents' fees;

(D) Administrative fees;

(E) Issuer's fees;

(F) Guarantee fees;

(G) Counsel fees; and

(H) Fees related to arbitrage compliance or rebate calculations;

(8)(A) "Existing employee" means an employee hired by a sponsor before the date the Amendment 82 agreement was executed.

(B) An existing employee may be considered a new full-time permanent employee for purposes of Arkansas Constitution, Amendment 82, and this subchapter only if:

(i) The position or job filled by the existing employee was created in accordance with the Amendment 82 agreement; and

(ii) The position vacated by the existing employee was filled by a subsequent employee who was not an existing employee, or no subsequent employee will be hired because the sponsor no longer conducts the particular business activity requiring that employee;

(9) "Federal Deposit Insurance Corporation" means the federal agency by that name or any successor agency that insures deposits of commercial banks;

(10) "Gross general revenues" means the revenues described and enumerated in § 19-6-201 or in any successor law;

(11) "Infrastructure needs" means:

(A) Land acquisition;

(B) Site preparation;

(C) Road and highway improvements;

(D) Rail spur construction;

(E) Water service;

(F) Wastewater treatment;

(G) Employee training, which may include equipment used for the training;

(H) Environmental mitigation;

(I) Training and research facilities and the necessary equipment for the facilities; or

(J) Any other facility, activity, or infrastructure determined by the General Assembly to fall within the parameters of Arkansas Constitution, Amendment 82;

(12)(A) "Investment" means money expended by the sponsor on capital assets physically located within the state and directly related to the qualified Amendment 82 project, but which are not required to be owned by the sponsor.

(B) "Investment" shall not include amounts expended in aid of the qualified Amendment 82 project by the state under Arkansas Constitution, Amendment 82, and this subchapter, or otherwise, or amounts expended in aid of the qualified Amendment 82 project by a local entity, however financed, which are not required to be repaid by the sponsor;

(13) "Letter of commitment" means a binding agreement signed by a sponsor and the Arkansas Economic Development Commission that at a minimum contains the following provisions:

(A) A determination by the commission that the sponsor has the financial capability, business history, and corporate intent to implement and maintain a qualified Amendment 82 project;

(B) A commitment by the sponsor that the sponsor intends to locate a new business or substantially expand an existing business in the State of Arkansas and a description of any other commitments made by the sponsor;

(C) A tentative timetable for development of the proposed project;

(D) The consequences if the sponsor does not satisfy its obligations under the letter of commitment; and

(E) A statement from the commission that its obligation under the letter of commitment is limited to presenting the letter of commitment and supporting documentation to the Governor, who may or may not elect to present the proposal to the General Assembly for its consideration;

(14) "Local entity" means any nonprofit corporation, county, city of the first class, city of the second class, incorporated town, improvement district, school district, or any agency or instrumentality of the state, including the Arkansas Development Finance Authority and the commission;

(15) "Nationally recognized rating agency" means Moody's Investors Service, Standard & Poor's Ratings Services, Fitch, Inc., or any other nationally recognized rating agency approved by the Treasurer of State;

(16) "Net general revenues" means the amount specified in § 19-5-202(b)(2)(B)(iii), otherwise known as net general revenues of the state available for distribution;

(17) "New full-time permanent employee" means a position or job that is created under an Amendment 82 agreement and that is filled by one (1) employee or contractual employee who is an Arkansas taxpayer. In order to count toward the job creation requirements of Arkansas Constitution, Amendment 82, and this subchapter:

(A) The position or job held by the employee must be filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours' work per week;

(B) The employee must receive an average hourly wage that exceeds the lesser of:

(i) The county average hourly wage for the county in which the position or job is located; or

(ii) The state average hourly wage;

(C) The employee must receive a benefits package, including, without limitation, health and retirement benefits; and

(D) The employee is not an existing employee;

(18)(A) "New job" means a position for a new full-time permanent employee created at a qualified Amendment 82 project in the state.

(B) "New job" shall not include a job filled by an existing employee;

(19) "Other needs" means financial or other noninfrastructure incentives that are approved by the General Assembly as part of a qualified Amendment 82 project and may include, without limitation, transactions that include loans, grants, or lease arrangements;

(20) "Outstanding bonded indebtedness" means the principal balance of all bonds issued under Arkansas Constitution, Amendment 82 and this subchapter;

(21) "Project costs" means:

(A) All or any part of the costs of developing a proposed or qualified Amendment 82 project and costs incidental or appropriate to the proposed or qualified Amendment 82 project, including, without limitation, all costs to the commission associated with the development or operation of a qualified Amendment 82 project in a supervisory capacity; and

(B) Costs incidental or appropriate to the financing of the proposed or qualified Amendment 82 project, including, without limitation:

(i) Capitalized interest;

(ii) Costs of issuance;

(iii) Funding of appropriate reserves for the bonds;

(iv) Loan fees;

(v) Guarantee fees;

(vi) Commitment fees;

(vii) Grant administration fees;

(viii) Surety bond premiums;

(ix) Bond insurance;

(x) Credit enhancement;

(xi) Fees of nationally recognized rating agencies;

(xii) Liquidity facilities fees; and

(xiii) Costs for engineering, legal, and other administrative and consultant services;

(22) "Proposed project" means a project which if developed as proposed would meet the criteria for a qualified Amendment 82 project and is therefore properly considered under Arkansas Constitution, Amendment 82, and this subchapter;

(23) "Qualified Amendment 82 project" means a proposed project that has satisfied the requirements of Arkansas Constitution, Amendment 82, and this subchapter with respect to which the General Assembly has approved the issuance of bonds under Arkansas Constitution, Amendment 82, and this subchapter;

(24) "Related entity" means any entity or person that bears a relationship to the sponsor as described in section 267 of the Internal Revenue Code of 1986, as in existence on January 1, 2005;

(25) "Sponsor" means a sole proprietor, partnership, corporation, limited liability company, joint venture, or association taxable as a business entity, or any combination of these entities, that qualifies as an eligible business under the Consolidated Incentive Act of 2003, § 15-4-2701 et seq.; and

(26) "State average hourly wage" means the weighted average weekly earnings for Arkansas residents in all industries statewide as calculated by the Department of Workforce Services in its most recent "Annual Covered Employment and Earnings" publication, divided by forty (40).

History. Acts 2005, No. 1981, § 1; 2011, No. 1047, §§ 1, 2.

Amendments. The 2011 amendment inserted "if any" in (1)(C); substituted "the sponsor's commitments" for "investment and job creation requirements under Arkansas Constitution, Amendment 82" in (1)(D); and substituted "and a description of any other commitments made by the sponsor" for "that will require an investment by the sponsor of more than five hundred million dollars ($500,000,000) and will create more than five hundred (500) new jobs" in (13)(B).

15-4-3203. Amendment 82 project qualification.

(a)(1)(A) In exercising its responsibilities under Arkansas Constitution, Amendment 82, the General Assembly delegates, authorizes, and directs the Arkansas Economic Development Commission, the Arkansas Development Finance Authority, and the Chief Fiscal Officer of the State to undertake a review of all proposed projects following the procedures described in this section.

(B) In order to be considered for qualification, a sponsor must fall within the definition of an "eligible business", as defined in § 15-4-2703.

(2) If the Governor refers a proposed project to the General Assembly under subsection (h) of this section, the commission and the authority shall prepare and provide to each member of the General Assembly the reports described in subsection (i) of this section, after which the General Assembly shall make the final and definitive decisions concerning the proposed project as set forth in subsection (j) of this section.

(b)(1) As the lead economic development agency for the State of Arkansas, the Arkansas Economic Development Commission may pro-

pose the use of Amendment 82 bonds to finance infrastructure and other needs in any combination in order to attract proposed projects to the State of Arkansas.

(2) In addition to powers conferred under other laws, the commission may take any reasonable action necessary to carry out the purposes of Arkansas Constitution, Amendment 82, and this subchapter.

(3) The proposed use of Amendment 82 financing by the commission shall not prohibit the commission, the state, or any local entity from using any other available economic incentives in connection with a proposed project.

(c) The commission shall initiate the process of selecting a proposed project for referral to the General Assembly by performing an economic impact and cost-benefit analysis to evaluate the capability of a sponsor and the feasibility of a proposed project and to determine if the proposed project has the potential to be a qualified Amendment 82 project. The economic impact and cost-benefit analysis shall include all other economic incentives offered by the state in connection with the proposed project.

(d) If the commission determines that a proposed project has the potential to become a qualified Amendment 82 project, the commission shall refer the proposal and the commission's findings to the authority so that the authority may perform an initial assessment of the feasibility and impact of issuing Amendment 82 bonds in connection with the proposed project, including the state's ability to cover projected debt service obligations and the impact on the overall rating of the state's general obligation bonded indebtedness, including, without limitation, bonds issued under Arkansas Constitution, Amendment 82, and this subchapter.

(e) If the authority's initial assessment is that Amendment 82 bond financing for the proposed project is feasible, the authority shall notify the commission, and the commission shall refer the proposal and the findings of the commission and the authority to the Chief Fiscal Officer of the State for review of the impact of the proposed Amendment 82 bond financing on any agency or program supported from the gross general revenues under the Revenue Stabilization Law, § 19-5-101 et seq.

(f) If the Chief Fiscal Officer of the State's initial assessment is that the proposed Amendment 82 financing will not have a substantially negative impact on any agency or program supported from gross general revenues, then:

(1) The Chief Fiscal Officer of the State shall notify the commission; and

(2) The commission shall make a formal proposal to the sponsor detailing the state's proposed offer with respect to Amendment 82 financing and all other economic incentives offered by the state in connection with the proposed project.

(g)(1) If the sponsor of a proposed project determines to accept Amendment 82 financing, then the sponsor and the commission, on behalf of the state, shall sign a letter of commitment.

(2) The commission shall forward the letter of commitment and the findings and recommendations of the commission, the authority, and the Chief Fiscal Officer of the State to the Governor for review.

(3)(A) The commission shall also forward the letter of commitment, the findings and recommendations of the commission, the authority, and the Chief Fiscal Officer of the State, and all supporting documentation to the Office of Economic and Tax Policy of the Bureau of Legislative Research on behalf of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(B)(i) At the direction of the President Pro Tempore of the Senate or the Speaker of the House of Representatives, the office shall arrange for an independent confirmation of the economic impact and cost-benefit analysis performed by the commission or an independent economic impact and cost-benefit analysis of the proposed project to be completed within twenty (20) working days after the receipt of the letter of commitment.

(ii) All information forwarded to the President Pro Tempore of the Senate and the Speaker of the House of Representatives by the commission and any resulting information related to the confirmation of the commission's economic impact and cost-benefit analysis or independent economic impact and cost-benefit analysis:

(a) Shall be considered working papers of the President Pro Tempore of the Senate and the Speaker of the House of Representatives under § 25-19-105(b)(7) and shall not be open to inspection and copying by any citizen of the State of Arkansas; and

(b) Is specifically exempt from the requirements of § 25-19-105(a).

(h) If the Governor determines that it is in the best interest of the state to pursue Amendment 82 financing for the proposed project, the Governor shall refer the proposed project to the General Assembly in regular session, fiscal session, or special session in order for the General Assembly to consider whether to approve the issuance of bonds under Arkansas Constitution, Amendment 82, and this subchapter.

(i)(1) In order to expedite review by the General Assembly, the commission and the authority shall prepare and provide to each member of the General Assembly the reports described in subdivisions (i)(2) and (3) of this section.

(2) The commission's report shall include:

(A) A description of the proposed project;

(B)(i) An itemization of the proposed infrastructure needs and other needs to be financed with the proceeds derived from the sale of Amendment 82 bonds.

(ii) The itemization shall include estimated costs and details to the maximum extent available at the time of the report;

(C) A description of all other economic incentives to be provided by the state in connection with the proposed project;

(D) A description of the economic impact and cost-benefit analyses of the proposed project for a period of at least ten (10) years that includes:

(i) The annual projected benefit to the state from increased sales and use tax and income tax revenue;

(ii) The annual projected cost to the state for each economic incentive offered to the sponsor in connection with the proposed project; and

(iii) The overall net present value benefit-to-cost ratio for the period of at least ten (10) years;

(E) The amount of bonds necessary to be issued to defray project costs and a budget of the project costs;

(F) A tentative time schedule setting forth the period of time during which the proceeds of the Amendment 82 bonds are to be expended;

(G) A statement by the Director of the Arkansas Economic Development Commission based on and outlining the:

(i) Terms of the letter of the commitment;

(ii) Estimated dollar amount of investment in the state from the proposed project; and

(iii) Estimated number of new jobs to be created by the proposed project;

(H) A copy of the signed letter of commitment for the proposed project; and

(I) A copy of the unexecuted Amendment 82 agreement for the proposed project.

(3) The authority's report shall include:

(A) A schedule of projected debt service, including all fees, showing the annual principal and interest requirements for any Amendment 82 bonds outstanding, if applicable, and the projected debt service for the Amendment 82 bonds proposed to be issued for the proposed project;

(B) A projected schedule of revenues, if any, to be received by the state from the sponsor in connection with its use of the infrastructure needs and other needs associated with the proposed project;

(C) An initial plan of marketing for the bonds and a proposed schedule of issuance dates, including, without limitation, the number of series to be issued and an estimated timeline for the series based on the commission's proposed spending schedule; and

(D) A preliminary and estimated sources and uses table.

(j) If the General Assembly determines that the proposed project is of the nature intended by the electors of the state to be financed with Amendment 82 bonds and approves the Amendment 82 agreement, it shall take appropriate legislative action to:

(1) Declare the proposed project a qualified Amendment 82 project;

(2) Establish any additional parameters deemed necessary by the General Assembly for the general structure of the qualified Amendment 82 project, including, without limitation, penalty provisions;

(3) Authorize the execution of the Amendment 82 agreement in substantially the same form as presented to the General Assembly; and

(4) Authorize the issuance of Amendment 82 bonds.

History. Acts 2005, No. 1981, § 1; 2009, No. 962, § 31; 2011, No. 1047, §§ 3, 4.

Amendments. The 2011 amendment added (a)(1)(B); and rewrote (i)(2)(G).

15-4-3206. Compliance time period — Audit requirements.

(a)(1) The Amendment 82 agreement shall specify a time period in which the sponsor must comply with the terms and conditions specified in the Amendment 82 agreement.

(2) Except as provided in subsection (b) of this section, the time period shall not exceed four (4) years from the date of enactment of related legislation under § 15-4-3203(j).

(3) If the sponsor does not comply with the applicable time period, then the penalty provisions set forth in the agreement and under § 15-4-3203(j) shall apply.

(b)(1)(A) The sponsor may request a one-year extension of the time period specified in the Amendment 82 agreement by submitting to the Director of the Arkansas Economic Development Commission a written request with an explanation as to why the extension is necessary.

(B) The request shall be submitted at least ninety (90) days before the expiration of the time period specified in the Amendment 82 agreement.

(2)(A) Upon receipt of a request to extend the applicable time period, the director shall immediately notify the President of the Arkansas Development Finance Authority, the Chief Fiscal Officer of the State, and the Governor.

(B) The director, the president, and the Chief Fiscal Officer of the State may approve a request for a one-year extension upon a determination that there is a valid economic reason for granting the extension.

(3) The sponsor shall be granted not more than three (3) one-year extensions of the applicable time period.

(c)(1) The sponsor shall maintain and make available records pertaining to items contained in the terms and agreements of the Amendment 82 agreement for annual audit by the Chief Fiscal Officer of the State and upon request no more often than annually by the Office of Economic and Tax Policy of the Bureau of Legislative Research or a person or entity retained by the office.

(2) The Arkansas Tax Procedure Act, § 26-18-101 et seq., shall apply to records maintained under this subsection and any audits conducted of the records, including any audit conducted through the office.

(3)(A) Records obtained or reviewed by the office under this section:

(i) Shall be considered working papers of the President Pro Tempore of the Senate and the Speaker of the House of Representatives under § 25-19-105(b)(7) and shall not be open to inspection and copying by any citizen of the State of Arkansas; and

(ii) Are specifically exempt from the requirements of § 25-19-105(a).

(B) However, a report of the audit shall be presented to the Legislative Council with respect to the status of the applicable qualified Amendment 82 project that details the sponsor's compliance with the provisions of the Amendment 82 agreement.

History. Acts 2005, No. 1981, § 1; 2011, No. 1047, § 5.

Amendments. The 2011 amendment redesignated former (a) as present (a)(1); substituted "terms and conditions" for "investment and job creation thresholds" in (a)(1); added the (a)(2) and (3) designations; in (a)(3), deleted "Arkansas Constitution, Amendment 82," preceding "and agreement" and deleted "enacted in related legislation" preceding "under § 15-4-3203(j)"; redesignated former (b)(1) as present (b)(1)(A) and added the (b)(1)(B) designation; added the (b)(2)(A) and (B) designations; and substituted "items contained in the terms and agreements of the Amendment 82 agreement" for "investment and job creation requirements" in (c)(1).

15-4-3221. Monitoring and reporting.

(a) The Arkansas Economic Development Commission shall require audits of all accounts related to construction, operation, or maintenance of any qualified Amendment 82 project funded by this subchapter.

(b) The Arkansas Economic Development Commission is responsible for monitoring and reporting to the Arkansas Development Finance Authority, the Governor, and the General Assembly on the ongoing economic impact of the project and the sponsor's progress in meeting the terms and conditions under the Amendment 82 agreement and this subchapter.

(c) The Arkansas Economic Development Commission and the authority, as applicable, shall require the sponsor to comply with all reporting and auditing requirements of the United States Securities and Exchange Commission or other state or federal regulatory agency that may have jurisdiction over the sponsor.

History. Acts 2005, No. 1981, § 1; 2011, No. 1047, § 6.

Amendments. The 2011 amendment substituted "the terms and conditions under the Amendment 82 agreement" for "economic development investment requirements under Arkansas Constitution, Amendment 82" in (b).

Subchapter 33 — Equity Investment Incentive Act of 2007

SECTION.
15-4-3303. Eligibility for equity investment incentive.
15-4-3304. Application for an equity investment incentive tax credit.
15-4-3305. Award of an equity investment incentive tax credit.
15-4-3306. Rules.

15-4-3303. Eligibility for equity investment incentive.

(a) Eligibility for the equity investment incentive tax credit under this subchapter is limited to investments in:

(1) Targeted businesses as defined in § 15-4-2703(43); or

(2) A business that receives assistance in the form of equity investments from capital investment funds that target early-stage businesses and start-up businesses, if the business:

(A) Pays not less than one hundred fifty percent (150%) of the lesser of the county average wage or the state average wage; and

(B) Meets at least two (2) of the following conditions:

(i) The business is in one (1) of the business sectors set forth in § 15-4-2703(43)(A)(i)-(vi);

(ii) The business is identified in a local or regional economic development plan as the type of business targeted for recruitment or growth within the community or region;

(iii) The business is supported by a resolution of the city council or quorum court in the municipality or county in which the business is located or plans to locate;

(iv) The business is supported by business incubators certified under § 26-51-815(d);

(v) The business is supported by federal small business innovation research grants; or

(vi) The business is supported by technology development or seed capital investments made by instrumentalities of the state.

(b)(1) The award of the equity investment incentive tax credit to a qualified business under subsection (a) of this section shall be determined jointly at the discretion of the Director of the Arkansas Economic Development Commission, the President of the Arkansas Development Finance Authority, and the President of the Arkansas Science and Technology Authority.

(2) Only cash investments shall qualify for the equity investment incentive tax credit under this subchapter.

(3) A business that seeks eligibility for an equity investment incentive tax credit under this subchapter shall sign an equity investment incentive agreement with the Arkansas Economic Development Commission.

History. Acts 2007, No. 566, § 1; 2011, No. 829, § 1.

Amendments. The 2011 amendment, in (b)(1), inserted "determined jointly" and added "the President of the Arkansas Development Finance Authority, and the President of the Arkansas Science and Technology Authority" at the end.

15-4-3304. Application for an equity investment incentive tax credit.

(a) A business that seeks eligibility for an equity investment incentive tax credit under this subchapter shall file an application with the Arkansas Economic Development Commission.

(b) The application shall include:

(1) A business plan describing the proposed business for which an equity investment incentive tax credit is sought;

(2) A projection of the amount of capital being sought for the proposed business; and

(3) Other information requested jointly by the Director of the Arkansas Economic Development Commission, the President of the Arkansas Development Finance Authority, and the President of the Arkansas Science and Technology Authority.

(c)(1) The commission shall gather information necessary to determine the eligibility of a business that seeks an equity investment incentive tax credit and process the application.

(2) The commission shall share the application and all information concerning the business with the Arkansas Development Finance Authority and the Arkansas Science and Technology Authority for review and concurrence on whether or not an equity investment incentive is offered to the business.

(d)(1) If a business is notified of approval of an application for an equity investment incentive tax credit, the business shall sign an equity investment incentive agreement with the commission.

(2) After the equity investment incentive agreement has been signed by the business and the commission, the business may solicit investors and offer the equity investment incentive tax credit to the investors.

(e) For the equity investment tax credit to be awarded to an investor, the eligible business shall verify that all conditions to the award of an equity investment incentive tax credit stated in the equity investment incentive agreement have been met within the time set forth in the agreement.

History. Acts 2007, No. 566, § 1; 2011, No. 829, § 2.

Amendments. The 2011 amendment, in (b)(3), inserted "jointly" and added "the President of the Arkansas Development Finance Authority, and the President of the Arkansas Science and Technology Authority" at the end; added "for review and concurrence on whether or not an equity investment incentive is offered to the business" at the end of present (c)(2); and deleted former (c)(2)(B).

15-4-3305. Award of an equity investment incentive tax credit.

(a) A person or company that purchases an equity interest in a qualified business under § 15-4-3303(a) in any of the calendar years 2007 — 2019 is entitled to a credit against any state income tax liability that may be imposed on the person or company for any tax year, beginning in the tax year in which the equity interest was purchased and for a period not to exceed nine (9) years beyond the tax year in which the equity interest was purchased.

(b) The credit against state income tax liability shall be determined in the following manner:

(1) The credit shall not exceed thirty-three and one-third percent (33⅓%) of the actual purchase price paid for the equity interest to the business, less any fees or commissions to underwriters or sales agents paid by the business;

(2) In any one (1) tax year, the credit allowed by this section shall not exceed fifty percent (50%) of the net Arkansas state income tax liability or premium tax liability of the taxpayer after all other credits and reductions in tax have been calculated;

(3)(A) Any credit in excess of the amount allowed by subdivision (b)(2) of this section for any one (1) tax year may be carried forward and applied against Arkansas state income tax for the next-succeeding tax year and annually thereafter for a total period of nine (9) years next succeeding the year in which the equity interest in a business was purchased, subject to the provisions of subdivision (b)(2) of this section or until the credit is exhausted, whichever occurs first.

(B) In no event may the credit allowed by this section be allowed for any tax year ending after December 31, 2028; and

(4) An original purchaser of equity interests who seeks to qualify for the income tax credit or premium tax credit provided in this section shall obtain and attach to the income tax return or premium tax return for the years the credit is claimed a certified statement from the business stating:

(A) The name and address of the original purchaser;

(B) The tax identification number of the person entitled to the credit;

(C) The original date of purchase of the equity interest;

(D) The number and type of equity interests purchased;

(E) The amount paid by the original purchaser for the equity interest;

(F) The amount of the tax credit associated with the purchase of the equity interest; and

(G) The amount of dividends and distributions previously paid by the business to the purchaser.

(c)(1) A transferee from an original purchaser is entitled to the tax credit described in this section only to the extent the credit is still available to and has not previously been used by the transferor.

(2) A transferee of equity interests or tax credits who seeks to qualify for the income tax credit or premium tax credit provided in this section shall obtain and attach to the income tax return or premium tax return for the years the credit is claimed a certified statement from the business stating:

(A) The name and address of the original purchaser and all transferees;

(B) The tax identification number of all persons entitled to any portion of the original tax credit;

(C) The original date the equity interest was purchased;

(D) The number and type of equity interests purchased;

(E) The amount paid by the original purchaser for the equity interest;

(F) The amount of the tax credit associated with the purchase of the equity interest;

(G) The amount of the tax credit associated with the original purchase used by all previous owners of the equity interest or tax credit and the remaining amount of the tax credit available for use by the transferee; and

(H) The amount of dividends and distributions previously paid by the business to the original purchaser and all transferees.

(d)(1) If the owner of an equity interest in or a tax credit issued by a company is a pass-through entity for tax purposes, such as a limited liability company or a partnership, then the owner of the pass-through entity is entitled to the tax credit described in this section.

(2) If a pass-through entity entitled to a tax credit under subdivision (d)(1) of this section is owned by two (2) or more persons, then the tax credit may be allocated among the pass-through entity owners in the method selected by the owners as described in the governing documents of the pass-through entity or by other written agreement among the owners.

(e)(1) For the purpose of ascertaining the gain or loss from the sale or other disposition of an equity interest in a business, the owner of the equity interest shall reduce the owner's basis in the equity interest by the amount of the tax credits previously deducted under this section.

(2) However, sale or other disposition under subdivision (e)(1) of this section does not include a transfer from the holder of an equity interest to the business in liquidation of the equity interest.

(3) This reduced basis shall be used by the original purchaser or transferee when calculating tax due under the Income Tax Act of 1929, § 26-51-101 et seq.

(f) The total cumulative amount of tax credits available to all purchasers of equity interest in qualified businesses under this section and under § 15-4-1026 in any calendar year shall not exceed six million two hundred fifty thousand dollars ($6,250,000).

History. Acts 2007, No. 566, § 1; 2009, No. 481, §§ 2, 3; 2011, No. 829, § 3.

Amendments. The 2011 amendment substituted "beginning in the tax year ... equity interest was purchased" for "commencing on or after the date of purchase" in (a).

15-4-3306. Rules.

The Arkansas Economic Development Commission, Arkansas Development Finance Authority, and Arkansas Science and Technology Authority shall promulgate jointly rules to implement this subchapter.

History. Acts 2007, No. 566, § 1; 2011, No. 829, § 4.

Amendments. The 2011 amendment inserted "Arkansas Development Finance Authority, and Arkansas Science and Technology Authority" and "jointly."

Subchapter 34 — Regional Economic Development Partnership Act

SECTION.
15-4-3401. Title.
15-4-3402. Legislative intent.
15-4-3403. Definitions.
15-4-3404. Regional economic development partnerships — Board of directors.
15-4-3405. Application.
15-4-3406. Termination.
15-4-3407. State funding.
15-4-3408. Matching funds.
15-4-3409. Eligible uses of state funds.
15-4-3410. Ineligible uses of state funds.
15-4-3411. Annual reports.
15-4-3412. Administration — Rules.

15-4-3401. Title.

This subchapter shall be known and may be cited as the "Regional Economic Development Partnership Act".

History. Acts 2011, No. 895, § 1.

15-4-3402. Legislative intent.

The General Assembly finds that:

(1) The support of regional economic development efforts is vital to the economic health and vitality of the state;

(2) In order to increase the income of Arkansans at a growth pace greater than the national average and to compete more effectively in the global marketplace for new business and jobs, the state must invest in innovative economic development strategies;

(3) The economy of the state varies significantly, and effective policies and programs must be customized to take advantage of resources and strengths within a particular region;

(4) New economic development strategies will meet the special needs and take advantage of the extraordinary assets of particular regions of the state instead of relying on a single approach;

(5) When economically feasible, the state should assist regional public and private efforts to promote economic development by providing state funds to share the cost of eligible marketing and promotional expenses associated with implementing a regional strategic plan; and

(6) The Governor's Strategic Plan for Economic Development is focused on increasing the capacity of a region of Arkansas to participate in economic development.

History. Acts 2011, No. 895, § 1; 2013, No. 1112, § 1.

Amendments. The 2013 amendment added (6).

15-4-3403. Definitions.

As used in this subchapter:

(1) "Economic development region" means a group of municipalities or counties that:

(A) Includes at least two (2) counties; and

(B) Has formed a regional economic development partnership;

(2) "In-kind contributions" means items given to a regional economic development partnership, including without limitation donated office space, equipment, staff, and other items specifically approved by the Arkansas Economic Development Commission; and

(3) "Regional economic development partnership" means an organization whose mission is to promote specific regions within the state in accordance with the intent described under § 15-4-3402.

History. Acts 2011, No. 895, § 1; 2013, No. 1112, §§ 2, 3.

Amendments. The 2013 amendment, in (1)(B), substituted "Has formed" for "Is willing to form" and deleted "for the purposes of regional economic development"

following "partnership"; and substituted "in accordance with the intent described under § 15-4-3402" for "for business, retail, nonprofit, and industrial location, relocation, and expansion" in (3).

15-4-3404. Regional economic development partnerships — Board of directors.

(a) A regional economic development partnership shall satisfy the following requirements:

(1) The economic development region includes the active participation of at least two (2) contiguous counties;

(2) The economic development region is of adequate size in population to:

(A) Effectively undertake economic development activities while remaining a distinct and viable region for attracting new investment; and

(B) Generate adequate regional resources to provide matching funds; and

(3) The economic development region is economically integrated as determined by:

(A) Commuting patterns;

(B) Economic base;

(C) Major employers;

(D) Membership in a defined metropolitan or micropolitan statistical area; or

(E) Other indicators determined by the Arkansas Economic Development Commission.

(b)(1) After a regional economic development partnership has been formed, a county may elect to join the regional economic development partnership by adopting an ordinance to that effect.

(2) However, a county that adopts an ordinance under subdivision (b)(1) of this section shall become a member of the regional economic development partnership only upon a majority vote of the members of the board of directors of the regional economic development partnership that are residents of Arkansas.

(c)(1) A regional economic development partnership formed on or after January 1, 2013, shall be governed by a board of directors that shall operate, manage, and control the regional economic development partnership in all respects.

(2) If a regional economic development partnership is formed on or after January 1, 2013:

(A) The board of directors shall contain at least one (1) representative from each county that is a member of the regional economic development partnership.

(B) The governing body of each county that is a member of the regional economic development partnership shall appoint members of the board of directors.

(C) A person appointed to the board of directors may be a representative of either a public entity or a private entity.

(3) Each member of the board of directors shall serve for a term as provided under the bylaws of the regional economic development partnership.

(4) The commission may allow an existing entity that applies to be a regional economic development partnership to maintain the entity's existing rules regarding the membership, terms, and duties of the board of directors.

(5) If a regional economic development partnership includes a territory located in another state, regional funding provided under this subchapter shall only be provided to a county in Arkansas.

History. Acts 2011, No. 895, § 1; 2013, No. 1112, § 4.

Amendments. The 2013 amendment rewrote the section.

15-4-3405. Application.

(a) An entity shall not be recognized as a regional economic development partnership under this subchapter unless the board of directors of the entity submits an application and is approved under this section.

(b) An entity applying for approval as a regional economic development partnership shall submit an application to the Arkansas Economic Development Commission that includes the following information:

(1) At least a three-year strategic plan that is consistent with the Governor's Strategic Plan for Economic Development and includes the following:

(A) The proposed activities of the partnership; and

(B)(i) A budget for the next calendar year.

(ii) The budget should clearly identify the proposed expenditures for which the grant funds are requested;

(2) Proof of organization;

(3) A copy of the entity's:

(A) Governing documents approved by the entity's governing board;

(B) Bylaws; or

(C) Articles of incorporation;

(4) A map of the economic development region and the population served by the regional economic development partnership based on the latest decennial census;

(5) The identity of each public organization and private organization within the economic development region that is active in economic development and a description of the role each organization will undertake in the regional economic development partnership;

(6) A list of the current members of the board of directors and the entity each member represents; and

(7)(A)(i) Evidence of:

(a) The staff dedicated to the regional economic development partnership; or

(b) The staff dedicated to program management of the regional economic development partnership.

(ii) The staff identified under subdivision (b)(7)(A)(i) of this section may be employed by an entity other than the regional economic development partnership.

(B) The primary responsibility of the staff members described in subdivision (b)(7)(A) of this section is to:

(i) Market and promote the economic development region to site selectors and business prospects; and

(ii) Accomplish the goals and objectives of the strategic plan required under subdivision (b)(1) of this section.

(c) The commission shall review each application submitted under this section and shall certify that:

(1) The applicant satisfies the requirements of § 15-4-3404; and

(2) The application submitted under this section includes the information required under subsection (b) of this section.

(d) The commission shall notify unsuccessful applicants in writing of the deficiencies of the applicant.

History. Acts 2011, No. 895, § 1; 2013, No. 1112, § 5.

Amendments. The 2013 amendment rewrote the section.

15-4-3406. Termination.

(a) A board of directors of a regional economic development partnership may terminate the regional economic development partnership upon a majority vote of the board of directors.

(b) Notice of the intent to terminate a regional economic development partnership shall be sent to the Arkansas Economic Development Commission at least thirty (30) days before a board of directors votes on the termination of a regional economic development partnership.

(c) Upon the termination of a regional economic development partnership, the board of directors of the regional economic development partnership shall remit any unspent state funds to the commission within sixty (60) days of the notice to terminate the regional economic development partnership.

History. Acts 2011, No. 895, § 1; 2013, No. 1112, § 6.

Amendments. The 2013 amendment, in (c), deleted "promptly" following "partnership shall" and inserted "within sixty (60) days of the notice to terminate the regional economic development partnership."

15-4-3407. State funding.

(a)(1) Each regional economic development partnership shall enter into an agreement with the Arkansas Economic Development Commission to receive state funds, if available.

(2) The agreement under subdivision (a)(1) of this section shall:

(A) Be for a term of not longer than one (1) year; and

(B) Identify the eligible expenses for which the regional economic development partnership intends to use state funds under § 15-4-3409.

(3)(A) The commission and the regional economic development partnership may enter into subsequent one-year agreements under this section following the commission's review of the annual report required under § 15-4-3411.

(B) If a regional economic development department partnership was initially approved as a multiyear project, a one-year renewal may be granted by the commission without the regional economic development department partnership submitting an annual application.

(b)(1) Each year, the commission shall allocate funds specifically appropriated by the General Assembly or the commission for regional economic development.

(2)(A) The funds shall be distributed equally to the qualifying regional economic development partnerships that meet the matching fund requirements under § 15-4-3408.

(B) Funds that are not disbursed under this section during a fiscal year may be distributed in a subsequent fiscal year.

History. Acts 2011, No. 895, § 1; 2013, No. 1112, § 7.

Amendments. The 2013 amendment inserted "if available" in (a)(1); redesignated former (a)(3) as present (a)(3)(A); added (a)(3)(B); and rewrote (b)(2)(A) and (b)(2)(B).

15-4-3408. Matching funds.

(a) A regional economic development partnership shall match the state funds allocated to the regional economic development partnership on the basis of at least one dollar ($1.00) of local matching funds for every one dollar ($1.00) of state funds.

(b) If a regional economic development partnership does not provide proof of sufficient matching funds before the release of state funds, the Arkansas Economic Development Commission shall reduce the award of state funds in the amount necessary to adhere to the required one-to-one ratio of local matching dollars to state dollars.

(c) Local matching funds may be:

(1) Provided by public sources, private sources, or a combination of public sources and private sources; and

(2)(A) Received in the form of cash, in-kind contributions, or a combination of cash and in-kind contributions.

(B) In-kind contributions shall not be more than forty percent (40%) of the regional economic development partnership's total matching funds.

History. Acts 2011, No. 895, § 1; 2013, No. 1112, § 8.

Amendments. The 2013 amendment, in (a), substituted "one dollar ($1.00) of local matching funds for every one dollar ($1.00)" for "two dollars ($2.00) of nonstate funds for every one dollar ($1.00)" following "basis of at least"; in (b), deleted "nonstate" following "sufficient" and substituted "one-to-one" for "two-to-one" and "local matching" for "nonstate"; and substituted "Local" for "Nonstate" in (c).

15-4-3409. Eligible uses of state funds.

State funds under this subchapter shall be used only for marketing, advertising, promoting, and other activities related to implementing the strategic plan required under § 15-4-3405.

History. Acts 2011, No. 895, § 1; 2013, No. 1112, § 9.

Amendments. The 2013 amendment redesignated former (a) as the present introductory language; inserted "under this subchapter" in the present introductory language; and deleted (b)(1) and (b)(2).

15-4-3410. Ineligible uses of state funds.

(a) State funds under this subchapter shall not be used for administrative costs.

(b) Ineligible uses of state funds include without limitation payment for the following expenses:

(1) Administrative salaries, benefits, general administrative costs, and salaries and benefits related to economic development;

(2) Overhead expenses, including without limitation postage, shipping, rent, subscriptions, equipment, furniture, fixtures, telephone, and utilities;

(3) Travel and conference expenses within the state;

(4) Local promotions or sponsorships;

(5) Stationery, paper, pens, and general office supplies;

(6) Construction and infrastructure costs;

(7) Membership dues;

(8) Alcoholic beverages; and

(9) Gratuity on meals, including meals related to activities described in § 15-4-3409.

History. Acts 2011, No. 895, § 1; 2013, No. 1112, § 10.

Amendments. The 2013 amendment, in (a), substituted "State" for "Except as provided in § 15-4-3409, state" and inserted "under this subchapter."

15-4-3411. Annual reports.

(a) A regional economic development partnership that receives state funding under this subchapter shall submit an annual report to the Arkansas Economic Development Commission.

(b) The annual report required under subsection (a) of this section shall include the following:

(1) A description of the economic development activities and organizational activities of the regional economic development partnership in the preceding twelve (12) months;

(2) A detailed financial report;

(3) A detailed budget for the next twelve (12) months; and

(4) A description of the prioritized activities of the regional economic development partnership for the next twelve (12) months for which state funding under this subchapter is being requested.

History. Acts 2011, No. 895, § 1; 2013, No. 1112, § 11.

Amendments. The 2013 amendment redesignated former (a)(1) as present (a); inserted "under this subchapter" in present (a); deleted (a)(2) and (b)(4) through (b)(7); and added present (b)(4).

15-4-3412. Administration — Rules.

The Arkansas Economic Development Commission shall administer this subchapter and may adopt any rules necessary to implement this subchapter.

History. Acts 2011, No. 895, § 1.

Subchapter 35 — Incentives for Major Maintenance and Improvement Projects

SECTION.

15-4-3501. Increased tax refund for major maintenance and improvement projects. [Effective July 1, 2014.]

Effective Dates. Acts 2013, No. 1404, § 4: July 1, 2014, by its own terms.

15-4-3501. Increased tax refund for major maintenance and improvement projects. [Effective July 1, 2014.]

(a) A taxpayer that is eligible for a refund of excise taxes under § 26-52-447 or § 26-53-149 is eligible for a refund of one hundred percent (100%) of the sales and use taxes levied in §§ 26-52-301, 26-52-302, 26-53-106, and 26-53-107 on the tangible personal property and services subject to §§ 26-52-446 and 26-53-149 for projects that meet the following requirements:

(1) The taxpayer has entered into a financial incentive agreement with the Arkansas Economic Development Commission for the project; and

(2) The taxpayer expends at least three million dollars ($3,000,000) on an approved project that includes the purchase of tangible personal property and services that are either exempt or subject to a partial refund of tax under § 26-52-402, § 26-52-447, § 26-53-114, or § 26-53-149.

(b) A taxpayer shall file with the commission an application for the increased refund for major maintenance and improvement projects provided in this section.

(c) The increased refund of sales and use taxes for major maintenance and improvement projects provided in this section is a discretionary incentive and is not available unless offered by the Director of the Arkansas Economic Development Commission.

(d) The Director of the Arkansas Economic Development Commission shall forward the taxpayer's application, financial incentive agreement, any other pertinent documentation, and a written copy of the determination under this subsection to the Director of the Department of Finance and Administration if the Director of the Arkansas Economic Development Commission:

(1) Determines that the taxpayer is eligible for the increased refund for major maintenance and improvement projects provided for in this section;

(2) Determines that the taxpayer has provided reasonable proof that there will be a positive return on the taxpayer's investment in the major maintenance and improvement project that is sufficient to offset the taxes refunded under this section;

(3) Determines that the taxpayer has provided a defined scope, beginning date, and ending date for the major maintenance and improvement project;

(4) Determines that the refund is reasonably necessary for the taxpayer to remain competitive and preserve Arkansas jobs; and

(5) Agrees to provide the incentive under this section.

(e) A taxpayer that has been approved for the increased refund for major maintenance and improvement projects provided for in this section may make changes in a major maintenance and improvement project by written amendment to the project plan filed with the commission as part of the financial incentive agreement required under this section.

(f) Except as otherwise provided in this section, a refund under this section is subject to the Arkansas Tax Procedure Act, § 26-18-101 et seq., in the same manner as other refunds permitted under § 26-18-507.

(g) An expenditure shall not qualify for both the increased refund for major maintenance and improvement projects under this section and the retention tax credit provided for in § 15-4-2706(c).

(h) The Director of the Arkansas Economic Development Commission and the Director of the Department of Finance and Administration may promulgate rules necessary to implement this section.

History. Acts 2013, No. 1404, § 3.
Effective Dates. Acts 2013, No. 1404, § 4: July 1, 2014, by its own terms.

Subchapter 36 — New Markets Jobs Act of 2013

SECTION.
15-4-3601. Title.
15-4-3602. Definitions.
15-4-3603. New market tax credit.
15-4-3604. Transferability.
15-4-3605. Certification of qualified equity investments.
15-4-3606. Letter rulings.
15-4-3607. Recapture.
15-4-3608. Cure period — Notice of noncompliance.
15-4-3609. Refundable performance fee.
15-4-3610. Retaliatory tax.
15-4-3611. Decertification.
15-4-3612. Reports.

SECTION.
15-4-3613. Revenue impact assessment.
15-4-3614. Rules.

A.C.R.C. Notes. Acts 2013, No. 1474, § 3 provided: "Applicability. This act applies only to a return or report originally due on or after the effective date of this act."

Effective Dates. Acts 2013, No. 1474, § 4: Apr. 22, 2013. Emergency clause provided: It is found and determined by the General Assembly of the State of Arkansas that the unemployment rate in Arkansas is high; that the high rate of unemployment in this state hinders Arkansas's economic recovery; that there is an urgent need to create jobs in this state; and that this act is immediately necessary to encourage the creation of additional jobs for Arkansans and to support Arkansas's continual economic recovery. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

15-4-3601. Title.

This subchapter shall be known and may be cited as the "New Markets Jobs Act of 2013".

History. Acts 2013, No. 1474, § 1.

15-4-3602. Definitions.

As used in this subchapter:

(1) "Applicable percentage" means:

(A) Zero percent (0%) for the first two (2) credit allowance dates;

(B) Twelve percent (12%) for the third, fourth, and fifth credit allowance dates; and

(C) Eleven percent (11%) for the sixth and seventh credit allowance dates;

(2) "Credit allowance date" means with respect to a qualified equity investment:

(A) The date on which the qualified equity investment is initially made; and

(B) Each of the subsequent six (6) anniversary dates of the date on which the qualified equity investment was initially made;

(3) "Letter ruling" means a written interpretation of law to a specific set of facts provided by an applicant requesting the written interpretation from the Arkansas Economic Development Commission;

(4) "Long-term debt security" means a debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven (7) years from the date

of its issuance without acceleration of repayment, amortization, or prepayment features before its original maturity date;

(5) "Purchase price" means the amount paid to the issuer of a qualified equity investment for a qualified equity investment;

(6)(A) "Qualified active low-income community business" means the same as defined in 26 U.S.C. § 45D and 26 C.F.R. § 1.45D-1, as they existed on January 1, 2013, if:

(i) At the time of the qualified community development entity's investment in or loan to the corporation, limited liability company, association, partnership, or other business entity, the corporation, limited liability company, association, partnership, or other business entity meets the United States Small Business Administration size eligibility standards established in 13 C.F.R. § 121.101-201, as it existed on January 1, 2013; and

(ii)*(a)* The corporation, limited liability company, association, partnership, or other business entity agrees to retain or create jobs that pay an average wage of at least one hundred fifteen percent (115%) of the federal poverty income guidelines for a family of four (4) for the census tract.

(b) The commission may waive the requirement stated in subdivision (6)(A)(ii)(*a*) of this section if the commission determines that an investment in the proposed active qualified low-income community business will have a positive impact on the community.

(B) A corporation, limited liability company, association, partnership, or other business entity will be considered a qualified low-income community business for the duration of the qualified community development entity's investment in or loan to the corporation, limited liability company, association, partnership, or other business entity if the relevant qualified community development entity reasonably expects, at the time it makes an investment or loan, that the corporation, limited liability company, association, partnership, or other business entity will continue to satisfy the requirements for being a qualified active low-income community business other than the requirements stated in subdivision (6)(A)(i) of this section throughout the entire period of the investment or loan.

(C) "Qualified active low-income community business" does not include the following:

(i)*(a)* A corporation, limited liability company, association, partnership, or other business entity that is the beneficiary of an incentive under § 15-4-2705, § 15-4-2706(b), or § 15-4-2706(c)(2).

(b) However, the commission may waive the requirement stated in subdivision (6)(C)(i)(*a*) of this section if the commission determines that an investment in the proposed active qualified low-income community business will have a positive impact on the community;

(ii)*(a)* Any industry excluded under a rule of the commission.

(b) However, the commission may waive the requirement stated in subdivision (6)(C)(ii)(*a*) of this section if the commission determines that an investment in the proposed active qualified low-income community business will have a positive impact on the community; or

(iii)*(a)* A corporation, limited liability company, association, partnership, or other business entity that derives or projects to derive at least fifteen percent (15%) of its annual revenue from the rental or sale of real estate.

(b) However, the restriction in subdivision (6)(C)(iii)(*a*) of this section does not apply to a corporation, limited liability company, association, partnership, or other business entity that is controlled by or under common control with another corporation, limited liability company, association, partnership, or other business entity that:

(1) Does not derive or project to derive at least fifteen percent (15%) of its annual revenue from the rental or sale of real estate; and

(2) Is the primary tenant of the real estate leased from the corporation, limited liability company, association, partnership, or other business entity;

(7)(A) "Qualified community development entity" means the same as defined in 26 U.S.C. § 45D, as it existed on January 1, 2013, if the corporation, limited liability company, association, partnership, or other business entity has entered into, for the current year or any prior year, an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized under 26 U.S.C. § 45D that includes Arkansas within the service area stated in the allocation agreement.

(B) "Qualified community development entity" includes a qualified community development entity that is controlled by or under common control with a qualified community development entity described in this subdivision (7);

(8)(A) "Qualified equity investment" means an equity investment in or a long-term debt security issued by a qualified community development entity that:

(i) Is acquired after April 22, 2013, at its original issue solely in exchange for cash;

(ii) Has at least eighty-five percent (85%) of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in Arkansas by the first anniversary of the initial credit allowance date; and

(iii) Is designated by the issuer as a qualified equity investment under this subdivision (8) and is certified by the commission as not exceeding the limitation stated in § 15-4-3605(d).

(B) "Qualified equity investment" includes an investment that does not meet the requirements of subdivision (8)(A)(i) of this section if the investment was a qualified equity investment in the hands of a previous holder;

(9) "Qualified low-income community investment" means a capital or equity investment in or loan to a qualified active low-income community business; and

(10) "State premium tax liability" means:

(A) Tax liability incurred by a corporation, limited liability company, association, partnership, or other business entity under §§ 23-63-102 and 26-57-601 — 26-57-605, excluding any liability for taxes on a health insurance premium; or

(B) If the tax liability under subdivision (10)(A) of this section is eliminated or reduced, any tax liability imposed on an insurance company or other person that had premium tax liability under the laws of the state.

History. Acts 2013, No. 1474, § 1.

15-4-3603. New market tax credit.

(a) A corporation, limited liability company, association, partnership, or other business entity that makes a qualified equity investment earns a vested right to a tax credit against state premium tax liability.

(b) The tax credit established under subsection (a) of this section may be utilized as follows:

(1) On each credit allowance date of the qualified equity investment, the corporation, limited liability company, association, partnership, or other business entity or the subsequent holder of the qualified equity investment may utilize a portion of the tax credit during the taxable year that includes the credit allowance date;

(2) The tax credit amount shall be equal to the applicable percentage for the credit allowance date multiplied by the purchase price paid to the issuer of the qualified equity investment;

(3) The amount of the tax credit claimed by a corporation, limited liability company, association, partnership, or other business entity shall not exceed the state premium tax liability owed by the taxpayer that files the premium tax report for the tax year for which the tax credit is claimed; and

(4) The tax credit is payable only from the general revenues derived from the nonallocated portion of the state premium tax liability funds as described in § 26-57-611.

(c) Any unused portion of a tax credit established under this section may be carried forward for nine (9) consecutive tax years.

History. Acts 2013, No. 1474, § 1.

15-4-3604. Transferability.

(a) A tax credit claimed under this subchapter shall not be refundable or saleable on the open market.

(b)(1) A tax credit earned by a corporation, limited liability company, association, partnership, or other business entity may be allocated to the partners, members, or shareholders of the corporation, limited liability company, association, partnership, or other business entity for their direct use in accordance with any agreement among the partners, members, or shareholders.

(2) An allocation under subdivision (b)(1) of this section:

(A) May occur after the issuance of a qualified equity investment; and

(B) Is not a sale for purposes of this subchapter.

History. Acts 2013, No. 1474, § 1.

15-4-3605. Certification of qualified equity investments.

(a)(1)(A)(i) A qualified community development entity that seeks to have an equity investment or a long-term debt security designated as a qualified equity investment eligible for a tax credit under this subchapter shall apply to the Arkansas Economic Development Commission.

(ii) The commission shall begin accepting applications on July 15, 2013.

(B)(i) If the qualified community development entity seeks to have a long-term debt security designated as a qualified equity investment under this section, the qualified community development entity shall not make cash interest payments on the long-term debt security during the period beginning on the date of issuance and ending on the final credit allowance date in an amount that exceeds the cumulative operating income, as determined under 26 C.F.R. § 1.45D-1, as it existed on January 1, 2013, of the qualified community development entity for that period before giving effect to interest expense on the long-term debt security.

(ii) However, the holder's ability to accelerate payments on the long-term debt security instrument in situations in which the issuer has defaulted on covenants designed to ensure compliance with this subchapter or 26 U.S.C. § 45D, as it existed on January 1, 2013, shall not be affected by this subchapter.

(2)(A) A qualified community development entity seeking certification of a qualified equity investment shall submit an application to the commission.

(B) The application submitted under subdivision (a)(2)(A) of this section shall include the following:

(i) Evidence of the applicant's certification as a qualified community development entity, including evidence that the service area of the applicant includes Arkansas;

(ii) A copy of an allocation agreement executed by the applicant, or its controlling entity, and the Community Development Financial Institutions Fund;

(iii) A certificate executed by an executive officer of the applicant:

(a) Attesting that the allocation agreement remains in effect and has not been revoked or cancelled by the Community Development Financial Institutions Fund; and

(b) Stating the cumulative amount of allocations awarded to the applicant by the Community Development Financial Institutions Fund;

(iv) A description of the proposed amount, structure, and purchaser of the qualified equity investment;

(v) If known at the time of application, identifying information for each corporation, limited liability company, association, partnership, or other business entity that will utilize the tax credits earned from the issuance of the qualified equity investment;

(vi)*(a)* Examples of the types of qualified active low-income businesses in which the applicant, its controlling entity, or affiliates of its controlling entity have invested under the federal New Markets Tax Credit Program, if any.

(b) An applicant shall not be required to identify qualified active low-income community businesses in which the applicant will invest when submitting an application;

(vii) A nonrefundable application fee of five thousand dollars ($5,000); and

(viii) The refundable performance fee required under § 15-4-3609.

(b)(1) Within thirty (30) days after receipt of a completed application, the commission shall grant or deny the application in full or in part.

(2)(A) If the commission denies any part of an application, the commission shall inform the qualified community development entity of the grounds for the denial.

(B)(i) If an application is denied as incomplete and the qualified community development entity provides the additional information or documentation required by the commission or otherwise completes its application within fifteen (15) days of the notice of denial, the application shall be considered completed as of the original date of submission.

(ii) If the qualified community development entity fails to provide the information or complete its application within the fifteen-day period, the application remains denied and must be resubmitted in full with a new submission date.

(3)(A) If the application is complete and meets the requirements of this subchapter, the commission shall certify the proposed equity investment or long-term debt security as a qualified equity investment that is eligible for a tax credit under this subchapter, subject to the limitations contained in subsection (d) of this section.

(B)(i) The commission shall provide written notice of the certification to the qualified community development entity.

(ii) The written notice shall include the name, if known, of each corporation, limited liability company, association, partnership, or other business entity that will earn the tax credit and the respective tax credit amount.

(iii) If the name of a corporation, limited liability company, association, partnership, or other business entity that is eligible to use the tax credit changes as the result of a transfer of a qualified equity investment or an allocation under § 15-4-3604(b), the qualified community development entity shall notify the commission of the change.

(c)(1) The commission shall certify qualified equity investments in the order the applications are received by the commission.

(2)(A) Applications received on the same day shall be deemed to have been received simultaneously.

(B) For applications that are complete and meet the requirements of this subchapter and are received on the same day, the commission shall certify, consistent with the remaining qualified equity investment capacity, the qualified equity investments in proportionate percentages based on the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day.

(d)(1) The commission shall certify up to one hundred sixty-six million dollars ($166,000,000) in qualified equity investments.

(2) If a pending request cannot be fully certified because of the limitation stated in subdivision (d)(1) of this section, the commission shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial certification.

(e) An approved applicant may transfer all or part of the applicant's certified qualified equity investment authority to the applicant's controlling entity or any qualified community development entity controlled by or under common control with the applicant:

(1) Provides the information required in the application with respect to the transferee; and

(2) Notifies the commission of the transfer by providing evidence of the receipt of the cash investment as required under subdivision (f)(2) of this section.

(f)(1) Within thirty (30) days of the applicant receiving notice of certification, the qualified community development entity or any transferee under subsection (e) of this section shall issue the qualified equity investment and receive cash in the amount of the certified amount.

(2) The qualified community development entity or transferee under subsection (e) of this section must provide the commission with evidence of the receipt of the cash investment within ten (10) business days after receipt.

(3)(A) If the qualified community development entity or a transferee under subsection (e) of this section does not receive the cash investment and issue the qualified equity investment within thirty (30) days following receipt of the certification notice, the certification shall lapse, and the corporation, limited liability company, association, partnership, or other business entity may not issue the qualified equity investment without reapplying to the commission for certification.

(B) A lapsed certification reverts back to the commission and shall be reissued:

(i) First, pro rata to any other applicants whose qualified equity investment allocations were reduced under subsection (d) of this section; and

(ii) Second, in accordance with the application process.

History. Acts 2013, No. 1474, § 1.

15-4-3606. Letter rulings.

(a) Subject to the requirements and limitations of this section, the Arkansas Economic Development Commission shall issue letter rulings regarding the tax credit program authorized under this subchapter.

(b)(1) The commission shall respond to a request for a letter ruling within sixty (60) days of receiving the request.

(2)(A) However, the commission may deny a request for a letter ruling for good cause.

(B) If the commission denies a request for a letter ruling for good cause, it shall list the specific reasons for refusing to issue the letter ruling.

(C) Good cause for denying a request for a letter ruling under this subsection (b) includes without limitation the following:

(i) The applicant requests the commission to determine whether a statute is constitutional or a regulation is lawful;

(ii) The request involves a hypothetical situation or alternative plans;

(iii) The facts or issues presented in the request are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a letter ruling; and

(iv) The issue is currently being considered in a rulemaking procedure, contested case, or other agency or judicial proceeding that may resolve the issue.

(3) In rendering letter rulings under this subchapter, the commission shall look for guidance to 26 U.S.C. § 45D and 26 C.F.R. § 1.45D-1, as they existed on January 1, 2013, and to the extent they are applicable.

(c) An applicant may:

(1) Provide a draft letter ruling for the commission's consideration; and

(2) Withdraw a request for a letter ruling, in writing, before the issuance of the letter ruling.

(d) Letter rulings bind all state agencies, including the commission and the commission's agents and successors until the qualified community development entity or its shareholders, members, or partners claim all of the applicable tax credits under this subchapter on a Arkansas tax return or report.

(e)(1) A letter ruling issued under this section applies only to the applicant that requested the letter ruling.

(2) However, a taxpayer identified in a letter ruling may rely on the letter ruling to the extent the letter ruling applies to the taxpayer.

History. Acts 2013, No. 1474, § 1.

15-4-3607. Recapture.

The Arkansas Economic Development Commission shall recapture the tax credit allowed under this subchapter from the taxpayer that claimed the tax credit if:

(1)(A) Any amount of a federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this subchapter is recaptured under 26 U.S.C. § 45D, as it existed on January 1, 2013.

(B) If a recapture occurs under subdivision (1)(A) of this section, the commission's recapture shall be proportionate to the federal recapture with respect to the qualified equity investment;

(2)(A) The issuer redeems or makes principal repayment with respect to a qualified equity investment before the seventh anniversary of the issuance of the qualified equity investment.

(B) If a recapture occurs under subdivision (2)(A) of this section, the commission's recapture shall be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment;

(3)(A) The issuer fails to:

(i) Invest an amount equal to eighty-five percent (85%) of the purchase price of the qualified equity investment in qualified low-income community investments in Arkansas within twelve (12) months of the issuance of the qualified equity investment; and

(ii) Maintain the minimum investment level required under subdivision (3)(A)(i) of this section until the last credit allowance date for the qualified equity investment.

(B)(i) A qualified equity investment shall be considered held by an issuer even if a qualified low-income community investment has been sold or repaid if the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original qualified low-income community investment, exclusive of any profits realized, in another qualified low-income community investment within twelve (12) months of the receipt of such returned capital.

(ii) Periodic amounts received during a calendar year as repayment of principal on a loan that is a qualified low-income community investment shall be treated as continuously invested in a qualified low-income community investment if the amounts are reinvested in one (1) or more qualified low-income community investments by the end of the following year.

(C) An issuer shall not be required to reinvest capital returned from a qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance after the earlier of:

(i) The sixth anniversary of the credit allowance date of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment; or

(ii) The date by which a qualified community development entity has made qualified low-income community investments with the proceeds of such qualified equity investment on a cumulative basis equal to at least one hundred fifty percent (150%) of such proceeds; or

(4) At any time before the final credit allowance date of a qualified equity investment, the issuer uses the cash proceeds of the qualified equity investment to make qualified low-income community investments in any one (1) or more qualified active low-income community businesses, including without limitation affiliated qualified active low-income community businesses and excluding reinvestments of capital returned or repaid with respect to earlier qualified equity investments in the qualified active low-income community business and its affiliates in excess of twenty-five percent (25%) of the cash proceeds of all qualified equity investments issued by the issuer under this section.

History. Acts 2013, No. 1474, § 1.

15-4-3608. Cure period — Notice of noncompliance.

(a) Enforcement of each of the recapture provisions under § 15-4-3607 is subject to a six-month cure period.

(b) Recapture shall not occur until the Arkansas Economic Development Commission has given the qualified community development entity written notice of its noncompliance and has afforded the qualified community development entity six (6) months from the date of the notice to cure the noncompliance.

History. Acts 2013, No. 1474, § 1.

15-4-3609. Refundable performance fee.

(a) A qualified community development entity that seeks to have an equity investment or long-term debt security designated as a qualified equity investment eligible for a tax credit under this subchapter shall pay a fee in the amount one-half of one percent (0.5%) of the amount of the equity investment or long-term debt security requested to be designated as a qualified equity investment to the Arkansas Economic Development Commission for deposit into the New Markets Performance Guarantee Fund, § 19-5-1254.

(b) The qualified community development entity shall forfeit the fee required under this section if:

(1) The qualified community development entity and its subsidiary qualified community development entities fail to:

(A) Issue the total amount of qualified equity investments certified by the commission; and

(B) Receive cash in the total amount certified under and within the time period stated in § 15-4-3605; or

(2)(A) The qualified community development entity or any subsidiary qualified community development entity that issues a qualified equity investment certified under this subchapter fails to meet the

investment requirement under § 15-4-3607(3) by the second credit allowance date of the qualified equity investment.

(B) Forfeiture of the fee under subdivision (b)(2)(A) of this section shall be subject to the six-month cure period established under § 15-4-3608.

(c)(1) The fee required under subsection (a) of this section shall be held in the New Markets Performance Guarantee Fund until compliance with the requirements of this section is established.

(2)(A) A qualified community development entity may request a refund of the fee from the commission no sooner than thirty (30) days after having met all the requirements of this section.

(B) The Treasurer of State shall comply with a request under subdivision (c)(2)(A) of this section or give notice of noncompliance within thirty (30) days of receiving the request.

History. Acts 2013, No. 1474, § 1.

15-4-3610. Retaliatory tax.

(a) An entity claiming a tax credit under this subchapter is not required to pay any additional retaliatory tax levied under § 23-63-102 as a result of claiming the tax credit.

(b) In addition to the exclusion in subsection (a) of this section, it is the intent of this subchapter that an entity claiming a tax credit under this subchapter is not required to pay any additional tax that may arise as a result of claiming the tax credit.

History. Acts 2013, No. 1474, § 1.

15-4-3611. Decertification.

(a)(1) If a qualified equity investment is certified under § 15-4-3605, the qualified equity investment shall not be decertified unless the requirements of subsection (b) of this section are met.

(2) Until all qualified equity investments issued by a qualified community development entity are decertified under this section, the qualified community development entity shall not distribute to its equity holders or make cash payments on long-term debt securities that have been designated as qualified equity investments in an amount that exceeds the sum of:

(A) The cumulative operating income, as determined under 26 C.F.R. § 1.45D-1, as it existed on January 1, 2013, earned by the qualified community development entity since issuance of the qualified equity investment, before giving effect to any expense from interest on long-term debt securities designated as qualified equity investments; and

(B) Fifty percent (50%) of the purchase price of the qualified equity investments issued by the qualified community development entity.

(b) To be decertified, a qualified equity investment shall:

(1) Be beyond its seventh credit allowance date;

(2)(A) Have been in compliance with § 15-4-3607 up through its seventh credit allowance date, including any cures under § 15-4-3608.

(B) The requirement under subdivision (b)(2)(A) of this section is satisfied if no recapture action has been commenced by the Arkansas Economic Development Commission as of the seventh credit allowance date; and

(3) Have invested its proceeds in qualified active low-income community investments such that the total qualified active low income community investments made, cumulatively including reinvestments, exceeds one hundred fifty percent (150%) of all qualified equity investments issued by the issuer.

(c)(1) A qualified community development entity that seeks to have a qualified equity investment decertified under this section shall send notice to the commission of its request for decertification along with evidence supporting the request.

(2)(A) A request under subdivision (c)(1) of this section shall not be unreasonably denied and shall be responded to within thirty (30) days of receiving the request.

(B) If the request is denied for any reason, the burden of proof shall be on the commission in any administrative or legal proceeding that follows to establish that the request was not unreasonably denied.

History. Acts 2013, No. 1474, § 1.

15-4-3612. Reports.

(a)(1) A qualified community development entity that issues a qualified equity investment under this subchapter shall submit a report to the Arkansas Economic Development Commission within five (5) business days after the first anniversary of the initial credit allowance date.

(2) The report required under subdivision (a)(1) of this section shall provide evidence:

(A) That at least eighty-five percent (85%) of the cash purchase price for each qualified equity investment was used to make qualified low-income community investments in qualified active low-income community businesses located in Arkansas;

(B) Of each qualified low-income community investment by providing a bank statement for the qualified community development entity that includes the qualified low-income community investment; and

(C) That each business was a qualified low-income community business at the time the qualified low-income community investment was made and shall state the name, location, and industry code of each qualified low-income community business receiving a qualified low-income community investment.

(b)(1) After submitting the report required under subsection (a) of this section, a qualified community development entity shall submit an

annual report to the commission within five (5) business days after each anniversary of the credit allowance date.

(2) The report required under subdivision (b)(1) of this section shall:

(A) Be submitted to the commission in electronic form and as a hard copy; and

(B) Include without limitation the following:

(i) The number of employment positions created and retained as the result of each qualified low-income community investment;

(ii) The average annual salary of the positions described in subdivision (b)(2)(B)(i) of this section;

(iii) Any other information required by the commission; and

(iv) Any other information submitted by the qualified community development entity to demonstrate the effectiveness of the qualified low-income community investment.

(c) A qualified community development entity shall not include in a report required under this section a qualified low-income community investment that has been redeemed or repaid.

History. Acts 2013, No. 1474, § 1.

15-4-3613. Revenue impact assessment.

(a)(1) Before making a qualified low-income community investment, a qualified community development entity shall submit to the Arkansas Economic Development Commission for review a revenue impact assessment prepared by a nationally recognized third-party independent economic forecasting firm utilizing the Regional Economics Model, Inc. or MIG, Inc. model that demonstrates that the qualified low-income community investment will have a revenue positive impact on the state over ten (10) years against the aggregate tax credit utilization over the same ten-year period.

(2) The aggregate tax credit utilization under subdivision (a)(1) of this section is equal to the amount of the qualified low-income community investment multiplied by fifty-eight percent (58%).

(b)(1) The commission shall complete its review and notify the qualified community development entity within ten (10) business days from the receipt of a revenue impact assessment.

(2) A proposed qualified low-income community investment shall be deemed revenue positive if the commission does not notify a qualified community development entity of its review with ten (10) business days of receipt of a revenue impact assessment.

(c) If the commission determines that the revenue impact assessment does not reflect a revenue positive qualified low-income community investment, the commission may waive the requirement under this section if the commission determines that the proposed qualified low-income community investment will further economic development.

History. Acts 2013, No. 1474, § 1.

15-4-3614. Rules.

The Arkansas Economic Development Commission shall promulgate rules to implement this subchapter.

History. Acts 2013, No. 1474, § 1.

CHAPTER 5

ARKANSAS DEVELOPMENT FINANCE AUTHORITY

SUBCHAPTER.

1. Arkansas Development Finance Authority Act — General Provisions.
2. Arkansas Development Finance Authority Act — Administration.
3. Arkansas Development Finance Authority Act — Bonds.
4. Arkansas Development Finance Authority Bond Guaranty Act of 1985.
11. Arkansas Capital Access Program for Small Business Act of 1993.
16. Arkansas Risk Capital Matching Fund Act of 2007.
18. State Entity Energy Efficiency Project Bond Act.

Subchapter 1 — Arkansas Development Finance Authority Act — General Provisions

SECTION.

15-5-103. Definitions.

15-5-103. Definitions.

As used in this subchapter, §§ 15-5-201 — 15-5-211, 15-5-213, 15-5-301 — 15-5-316, § 15-5-401 et seq., and § 15-5-701 et seq.:

(1) "Aggregate security value of the contract" means the amount determined by the party identified in and in the manner identified in an interest rate exchange agreement or similar agreement or contract that a proposed assignee would pay in United States currency to the Arkansas Development Finance Authority to assume the obligations of the authority under the interest rate exchange agreement or similar agreement or contract;

(2) "Agricultural business enterprises" means facilities and operations supporting farms, ranches, and other agricultural or silvicultural commodity producers, such as aquaculture, fish hatchery operations and fish farms, and related businesses and industries, including, but not limited to, grain elevators, shipping heads, livestock pens, warehouses and other storage facilities, related transportation facilities, drainage facilities, and any related facilities and operations thereto;

(3) "Authority" means the Arkansas Development Finance Authority created by § 15-5-201;

(4) "Board of directors" means the Board of Directors of the Arkansas Development Finance Authority created in § 15-5-202;

(5) "Bonds" means any bonds, notes, debentures, interim certificates, grant and revenue anticipation notes, commercial paper or other notes with maturities of one (1) year or less, interest in a lease, and lease certificates of participation or other evidences of indebtedness, whether

or not the interest on them is subject to federal income taxation, issued by the authority;

(6) "Capital improvements" means, whether obtained by purchase, lease, construction, reconstruction, restoration, improvement, alteration, repair, or other means:

(A) Any physical public betterment or improvement or any preliminary plans, studies, or surveys relative thereto;

(B) Land or rights in land, including without limitations leases, air rights, easements, rights-of-way, or licenses; and

(C) Any furnishings, machinery, vehicles, apparatus, or equipment for any public betterment or improvement, which shall include without limiting the generality of the foregoing definition the following:

(i) Any and all facilities for state agencies, city or town halls, courthouses, and other administrative, executive, or public offices;

(ii) Court facilities;

(iii) Jails;

(iv) Firefighting facilities and apparatus;

(v) Parking garages or other facilities;

(vi) Educational and training facilities for public employees;

(vii) Auditoriums, stadiums, convention halls, and similar public meeting or entertainment facilities;

(viii) Civil defense facilities;

(ix) Air and water pollution control facilities;

(x) Drainage and flood control facilities;

(xi) Storm sewers;

(xii) Arts and crafts centers;

(xiii) Museums;

(xiv) Libraries;

(xv) Public parks, playgrounds, or other public open space;

(xvi) Marinas;

(xvii) Swimming pools, tennis courts, golf courses, camping facilities, gymnasiums, and other recreational facilities;

(xviii) Tourist information and assistance centers;

(xix) Historical, cultural, natural, or folklore sites;

(xx) Fair and exhibition facilities;

(xxi) Streets and street lighting, alleys, sidewalks, roads, bridges, and viaducts;

(xxii) Airports, passenger or freight terminals, hangars, and related facilities;

(xxiii) Barge terminals, ports, harbors, ferries, wharves, docks, and similar marine services;

(xxiv) Slack water harbors, water resource facilities, waterfront development facilities, and navigation facilities;

(xxv) Public transportation facilities;

(xxvi) Public water systems and related transmission and distribution facilities, storage facilities, wells, impounding reservoirs, treatment plants, lakes, dams, watercourses, and water rights;

(xxvii) Sewage collection systems and treatment plants;

(xxviii) Maintenance and storage buildings and facilities;

(xxix) Police and sheriffs' stations, apparatus, and training facilities;

(xxx) Incinerators;

(xxxi) Garbage and solid waste disposal and compacting and recycling facilities of every kind; and

(xxxii) Social and rehabilitative facilities;

(7) "Construct" means to acquire or build, in whole or in part, in such manner and by such method, including contracting therefor, and if the latter, by negotiation or bidding upon such terms and pursuant to such advertising as the authority shall determine to be in the public interest and necessary under the circumstances existing at the time to accomplish the purposes of and authority set forth in this subchapter;

(8) "Counterparty" means the party entering into the interest rate exchange agreement or similar agreement or contract with the authority;

(9) "Educational facilities" means real, personal, and mixed property of any and every kind intended by an educational institution in furtherance of its educational program, including, but not limited to, dormitories, classrooms, laboratories, athletic fields, administrative buildings, equipment, and other property for use therein or thereon;

(10) "Energy efficiency project" means the same as defined under the State Entity Energy Efficiency Project Bond Act, § 15-5-1801 et seq.;

(11) "Facilities" means any real property, personal property, or mixed property of every kind, including, without limiting the generality of the foregoing, rights-of-way, roads, streets, pipes, pipelines, reservoirs, utilities, materials, equipment, fixtures, machinery, furniture, furnishings, instrumentalities, and other real, personal, or mixed property of every kind or any preliminary studies and surveys relative thereto;

(12) "Health care facilities" means facilities for furnishing physical or mental health care, including, without limitation:

(A) Hospitals, other facilities for the diagnosis and treatment of any illness or disease, offices and clinics of doctors of medicine, dentists, optometrists, podiatrists, chiropractors, and related facilities, and nursing homes and related facilities;

(B) Long-term care or life-care facilities for the elderly or disabled, including facilities used to furnish emergency medical health care and emergency medical services, including, but not limited to, ambulances or vehicles specifically designed, equipped, and licensed for transporting the sick or injured;

(C) Laboratories and other facilities for conducting health care-related research, including buildings and other facilities to support and sustain these activities;

(D) Equipment of every nature and kind related to health care, whether for diagnostic purposes, medical treatment, or research;

(E) Emergency medical equipment and supplies;

(F) Dispatching or other communication systems;

(G) Computers for billing, collections, and system design and control;

(H) Training and administrative facilities; and

(I) Health care project costs as defined in subdivision (13) of this section;

(13)(A)(i) "Health care project costs" specifically includes the refinancing of any existing debt of a health care facility necessary in order to permit the health care facility to borrow from the authority and give adequate security for the health care facility loan.

(ii) The determination of the authority with respect to the necessity of refinancing and adequate security for a health care facility loan is conclusive.

(B)(i) "Health care project costs" also includes the financing of working capital.

(ii) However, any health care facility loan to a health care facility located outside the state to finance working capital shall be made only if necessary to a program of working capital financing, including a health care facility loan to a health care facility located within the state.

(C) The determination of the authority with respect to the necessity of these health care facility loans to health care facilities located outside the state is conclusive.

(D) Pooled or Consolidated Financings of a Number of Loans for Health Care Facilities.

(i) The authority may make loans for health care facilities located outside the state, provided:

(a) Loans under the same pooled or consolidated financing program are made under similar terms to health care facilities located within the state; and

(b) The authority's fees or charges, after deducting all appropriate expenses for providing the aggregated or pooled financings of health care facilities, are primarily dedicated to furthering the delivery of health care within the state.

(ii) The determination of the authority with respect to the necessity and appropriateness of the health care facility loans to health care facilities located either within or outside the state is conclusive.

(iii) The General Assembly declares that the authority acting as authorized under this section in making health care loans under the terms hereof is within the legislative findings and declaration of public necessity as set forth in § 15-5-102(b)(7).

(iv) Bonds issued by the authority under this subdivision (13)(D) shall not be exempt from taxes of the State of Arkansas;

(14)(A) "Housing development" means any work or undertaking, whether new construction or rehabilitation, that is designed and financed pursuant to the provisions of this subchapter for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for elderly persons and families of low or moderate income in need of housing.

(B) Such an undertaking may include any buildings, land, equipment, facilities, or other real or personal properties that are necessary, convenient, or desirable appurtenances, such as, but not limited to, site preparation, landscaping, and other nonhousing facilities such as community and recreational facilities as the authority determines to be necessary, convenient, or desirable appurtenances, retirement homes, centers, and related facilities, nursing homes and related facilities, and long-term care or life-care facilities for the elderly or disabled;

(15)(A) "Industrial enterprise" means, but is not limited to, facilities and operations for manufacturing, producing, processing, assembling, repairing, extracting, warehousing, distributing, communications, computer services, the production of motion pictures and like products, technology-based enterprises, tourism enterprises, transportation, corporate and management offices, and services provided in connection with any of the foregoing, in isolation or in any combination, that involve the creation of new or additional employment or the retention of existing employment, and industrial parks.

(B) However, a shopping center, retail store or shop, or other similar undertaking that is solely or predominantly of a commercial retail nature shall not be an industrial enterprise for the purposes of this subchapter;

(16) "Interest rate exchange agreement or similar agreement or contract" means a written contract entered into by the authority with one (1) or more counterparties that:

(A) Is related to the issuance of bonds by the authority or to bonds previously issued by the authority that are outstanding on the date of execution of the contract;

(B) Provides for an exchange of payments, denominated in United States currency, that is based upon fixed or variable interest rates; and

(C) Includes contracts and options related to any exchange of payments as determined by the authority under its rulemaking authority under § 15-5-317;

(17) "Loans" means loans made for the purposes of financing any of the activities authorized within this subchapter, including:

(A) Working capital, the acquisition of accounts as defined in § 4-9-106, to finance working capital;

(B) Loans made to financial institutions for the purpose of funding or as security for loans made for the purpose of accomplishing any of the purposes of this subdivision (17);

(C) Loans made to nonprofit corporations and affiliated organizations for the purpose of such entities' providing funds and loans for health care project costs as defined in this section; and

(D) Reserves and expenses appropriate or incidental to all such loans described in this subdivision (17);

(18) "Operations" means any and all matters deemed necessary or desirable to the promotion of agricultural business and industrial

enterprises, including, but not limited to, the provision of labor and services of any nature and all transactions pertaining to receivables, accounts, inventory, loans, lines of credit, and working capital, designed to promote, restore, revitalize, or develop existing agricultural business or industrial enterprises, or the establishment of new agricultural business or industrial enterprises;

(19) "Political subdivision" means a city of the first class, a city of the second class, an incorporated town, a county, or an improvement district, or any agency, board, commission, public corporation, or instrumentality of the above;

(20) "Scientific and technical services business" means a business:

(A) Primarily engaged in performing scientific and technical activities for others, including:

(i) Architectural and engineering design;

(ii) Computer programming and computer systems design; and

(iii) Scientific research and development in physical, biological, and engineering sciences;

(B) Selling expertise;

(C) Having production processes that are almost wholly dependent upon worker skills;

(D) Deriving at least seventy-five percent (75%) of its revenue from out-of-state sales; and

(E) Paying average hourly wages that exceed one hundred fifty percent (150%) of the county or state average wage, whichever is less;

(21) "Short-term advance funding" means the financing of temporary cash shortfalls of local governments based on the local government's projected monthly incomes and expenditures and its surplus at the beginning of each fiscal year, and the shortfall is the result of the local government's projected income's being insufficient to meet the needs of its estimated expenditures, even though the aggregate income will exceed the aggregate expenditures for the fiscal year;

(22) "State" means the State of Arkansas;

(23) "State agency" means any office, department, board, commission, bureau, division, public corporation, agency, or instrumentality of this state;

(24) "Technology-based enterprises" means:

(A)(i) A grouping of growing business sectors, identified as targeted businesses, that includes the following:

(a) Advanced materials and manufacturing systems;

(b) Agriculture, food, and environmental sciences;

(c) Biotechnology, bioengineering, and life sciences;

(d) Information technology;

(e) Transportation logistics; and

(f) Bio-based products.

(ii) In order to receive benefits as a targeted business, the business must pay not less than one hundred fifty percent (150%) of the lesser of the county or state average wage;

(B) A scientific and technical services business; or

(C) A corporation, partnership, limited liability company, sole proprietorship, or other legal entity whose primary business directly involves commercializing the results of research conducted in one (1) of the six (6) growing business sectors identified as targeted businesses; and

(25) "Tourism enterprise" means:

(A) Cultural and historic sites, recreational and entertainment facilities, areas of natural phenomena or scenic beauty, theme parks, amusement or entertainment parks, indoor or outdoor theatrical productions, botanical gardens, and cultural or educational centers; and

(B) Lodging facilities that are an integrated part of any of the enterprises listed in this subdivision (25).

History. Acts 1985, No. 1062, § 3.00; A.S.A. 1947, § 13-2903; Acts 1987, No. 780, § 1; 1989, No. 836, §§ 1-3; 1995, No. 1117, § 1; 1999, No. 429, §§ 1, 2; 2001, No. 1734, §§ 1-3; 2001, No. 1791, § 10; 2003, No. 494, § 1; 2005, No. 1232, § 6; 2013, No. 1252, § 2.

Amendments. The 2013 amendment inserted (10) and redesignated former (10) through (24) as present (11) through (25).

Subchapter 2 — Arkansas Development Finance Authority Act — Administration

SECTION.

15-5-207. Rights, powers, privileges, and duties of authority.

15-5-207. Rights, powers, privileges, and duties of authority.

(a) The Arkansas Development Finance Authority shall have such rights, powers, and privileges and shall be subject to such duties as provided by this subchapter and §§ 15-5-101 — 15-5-106 and 15-5-301 — 15-5-316.

(b) Except as otherwise limited by this subchapter and §§ 15-5-101 — 15-5-106 and 15-5-301 — 15-5-316, the authority shall have the following powers:

(1) To sue;

(2) To be sued;

(3) To have a seal and alter the seal at its pleasure;

(4) To make and alter bylaws for its organization and internal management;

(5) To make and issue such rules and regulations as may be necessary or convenient in order to carry out the purposes of this subchapter and §§ 15-5-101 — 15-5-106 and 15-5-301 — 15-5-316;

(6) To acquire, hold, and dispose of real and personal property for its corporate purposes;

(7) To appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their compensation;

(8) To borrow money and to issue notes, bonds, and other obligations, whether or not the interest on which is subject to federal income taxation, and to provide for the rights of the lenders or holders thereof;

(9) To issue bonds on behalf of state agencies and political subdivisions;

(10)(A) To issue bonds to provide financing for a specific activity or particular project authorized under this chapter or to provide on a pooled or consolidated basis financing for activities or projects authorized under this chapter that shall be secured by and payable solely from the bonds, lease payments, or other obligations issued by or payable to the state agencies, political subdivisions of the state, or others for whose benefit the authority may issue bonds, and the security and sources of payments thereof.

(B)(i) The authority may also issue bonds for the purpose of generating investment earnings or other income.

(ii) The investment earnings or other income shall thereafter be used to finance activities or projects authorized in this section.

(C) Prior to the engagement of a financial institution to serve as trustee, paying agent, or in any fiduciary capacity in connection with any program, indenture, or general resolution of the authority, the authority shall request proposals for services, and the selection of the financial institution shall be made on the basis of the response to such a request that is the most economical and in the best interest of the authority;

(11) To purchase notes or participations in notes evidencing loans that are secured by mortgages or security interests and to enter into contracts in that regard, or to purchase accounts to finance working capital;

(12)(A) To make secured or unsecured loans, including loans made to financial institutions to secure loans made by the financial institutions to qualifying agricultural business enterprises, capital improvements, educational facilities, energy enterprises, health care facilities, housing developments, industrial enterprises, and short-term advance funding of local government obligations.

(B) Prior to the making of any loan for qualifying agricultural business enterprises or industrial enterprises, the loan transaction shall be recommended to the authority by a financial institution or investment banker;

(13) To sell mortgages and security interests at public or private sale, to negotiate modifications or alterations in mortgage and security interests, to foreclose on any mortgage or security interest in default or commence any action to protect or enforce any right conferred upon it by any law, mortgage, security agreement, contract, or other agreement, and to bid for and purchase property that was the subject of such a mortgage or security interest at any foreclosure or at any other sale, to acquire or take possession of any such property, and to exercise any and all rights as provided by law for the benefit or protection of the authority or mortgage holders;

(14) To collect fees and charges in connection with its loans, bond guaranties, commitments, and servicing, including, but not limited to, reimbursement of costs of financing as the authority shall determine to be reasonable and as shall be approved by the authority;

(15) To make and execute contracts for the servicing of mortgages acquired by the authority pursuant to this subchapter and §§ 15-5-101 — 15-5-106 and 15-5-301 — 15-5-316 and to pay the reasonable value of services rendered to the authority pursuant to those contracts;

(16) To accept gifts, grants, loans, and other aid from the federal government, the state or any state agency, or any political subdivision of the state, or any person or corporation, foundation, or legal entity and to agree to and comply with any conditions attached to federal and state financial assistance not inconsistent with the provisions of this subchapter and §§ 15-5-101 — 15-5-106 and 15-5-301 — 15-5-316;

(17) To invest moneys of the authority, including proceeds from the sale of any bonds, in such manner as the Board of Directors of the Arkansas Development Finance Authority shall determine, subject to any agreement with bondholders stated in the authorizing resolution, as defined in § 15-5-309, providing for the issuance of bonds;

(18) To procure insurance against any loss in connection with its programs, property, and other assets;

(19) To provide technical assistance and advice to the state, political subdivisions of the state, and local governing authorities and to enter into contracts with the state, political subdivisions of the state, and local governing authorities to provide such services. The state, political subdivisions of the state, and local governing authorities are authorized to enter into contracts with the authority for such services and to pay for such services as may be provided them;

(20)(A) To contract, cooperate, or join with any one (1) or more other governments or public agencies or with any political subdivisions of the state or with the United States to perform any administrative service, activity, or undertaking that any such contracting party is authorized by law to perform, including the issuance of bonds.

(B) An "intergovernmental agreement" is defined as any service contract entered into by a contracting party that establishes a permanent perpetual relationship thereby obligating the financial resources of the contracting party.

(C) The term "permanent or perpetual relationship" is defined for purposes of this subchapter and §§ 15-5-101 — 15-5-106 and 15-5-301 — 15-5-316 as any agreement exhibiting an effective duration greater than one (1) year, twelve (12) calendar months, or an agreement exhibiting no fixed duration but when the apparent intent of such an agreement is to establish a permanent or perpetual relationship. Such intergovernmental agreements shall be authorized by ordinance or resolution of the contracting party. Any intergovernmental agreement enacted may provide for the contracting party to:

(i) Cooperate in the exercise of any function, power, or responsibility;

(ii) Share the services of any officer, department, board, employee, or facility; and

(iii) Transfer or delegate any function, power, responsibility, or duty.

(D) An intergovernmental agreement shall be authorized and approved by the governing body of each party to the agreement, shall set forth fully the purposes, powers, rights, obligations, and responsibilities of the contracting parties, and shall specify the following:

(i) Its duration;

(ii) The precise organization, composition, and nature of any separate legal entity created;

(iii) The purpose or purposes of the intergovernmental agreement;

(iv) The manner of financing the joint or cooperative undertaking and establishing and maintaining a budget;

(v) The permissible method or methods to be employed in accomplishing the partial or complete termination of an agreement and for disposing of property upon partial or complete termination. The method or methods for termination shall include a requirement of six (6) months' written notification of the intent to withdraw by the governing body of the public agency wishing to withdraw;

(vi) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking, including representation of the contracting parties on the joint board;

(vii) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking; and

(viii) Any other necessary and proper matters.

(E)(i) Every agreement prior to and as a condition precedent to its final adoption and performance shall be submitted to the Attorney General, who shall determine whether the agreement is in proper form and compatible with the laws of the State of Arkansas.

(ii) The Attorney General shall approve any agreement submitted to him or her unless he or she finds it does not meet the conditions set forth in this section and shall detail in writing addressed to the governing bodies of the public agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law.

(iii) Failure to disapprove an agreement within thirty (30) days of its submission shall constitute approval;

(21) To undertake and carry out studies and analyses of agricultural business, industrial, health care, housing, energy, educational, capital improvement, and local governments' short-term advance funding needs within the state and ways of meeting such needs;

(22) To establish accounts in one (1) or more depositories;

(23) To lease, acquire, construct, sell, and otherwise deal in and contract concerning any facilities;

(24) To accept funds for and participate in federal and other governmental programs established for the purpose of the promotion and development of agricultural business, industry, the provision of decent,

safe, and sanitary housing, health care, education, tourism, capital improvements, and related matters;

(25) To have and exercise all of the powers granted to the public housing authorities by the state, except that the authority shall not have the power of eminent domain;

(26) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this subchapter and §§ 15-5-101 — 15-5-106 and 15-5-301 — 15-5-316;

(27)(A) To assist minority businesses in obtaining loans or other means of financial assistance.

(B) The terms and conditions of such loans or financial assistance, including the charges for interest and other services, will be consistent with the provisions of this subchapter and §§ 15-5-101 — 15-5-106 and 15-5-301 — 15-5-316.

(C) In order to comply with this requirement, efforts must be made to solicit for review and analysis proposed minority business ventures.

(D) Be it further provided that basic loan underwriting standards will not be waived to inconsistently favor minority persons or businesses from the intent of the authority's lending practices;

(28) To create nonprofit corporations that shall have such purposes and powers as the board shall determine, to assist in carrying out the purposes of this subchapter and §§ 15-5-101 — 15-5-106 and 15-5-301 — 15-5-316, and to provide technical, administrative, and financial assistance to those nonprofit corporations;

(29) To make secured or unsecured loans to or to guarantee the payment of loans made to businesses for the purpose of financing the export of goods to foreign countries if the board shall first find that a substantial portion of the value of those goods prior to export has been or will be added in the state;

(30) To make loans and enter into contracts with respect to, and issue bonds on behalf of, nonprofit organizations, including the issuance of qualified 501(c)(3) bonds as defined in the Internal Revenue Code;

(31) To make loans and enter into contracts with respect to, and issue bonds on behalf of, scientific and technical services businesses, technology-based enterprises, and tourism enterprises;

(32) To administer the allocation of the state ceiling of private activity bonds, as that term is defined in the Tax Reform Act of 1986, which are subject to volume limitations under federal law, including particularly the limitations under section 146 of the Internal Revenue Code of 1986; and

(33) To enter into an interest rate exchange agreement or similar agreement or contract.

(c) All applications filed with the Arkansas Development Finance Authority for direct loans authorized under subsection (b) of this section shall be treated, handled, and considered in the same manner as set forth for other loan applications in § 15-5-409.

History. Acts 1985, No. 1062, §§ 4.00, 5.00; 1986 (2nd Ex. Sess.), No. 18, § 1; A.S.A. 1947, §§ 13-2904, 13-2905; Acts 1987, No. 900, §§ 2-4; 1989, No. 836, § 4; 2001, No. 1044, § 6; 2003, No. 494, § 2; 2007, No. 593, § 1; 2013, No. 1252, § 3.

Amendments. The 2013 amendment substituted "under this chapter" for "herein" preceding "or to provide" and substituted "under this chapter that" for "hereunder which" preceding "shall be secured" in (b)(10)(A).

Subchapter 3 — Arkansas Development Finance Authority Act — Bonds

SECTION.

15-5-301. Power to issue bonds.
15-5-318. Primary administration of federal allocations of private activity and governmental volume cap.

Effective Dates. Acts 2011, No. 814, § 2: Mar. 30, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is a limited window of time for the state to receive volume cap allocations; that this act is necessary to ensure the state's receipt of those funds; and that this act should become effective as soon as possible to effectuate its purposes. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

15-5-301. Power to issue bonds.

(a)(1) The Arkansas Development Finance Authority is authorized and empowered to issue bonds, whether or not the interest on the bonds is subject to federal income taxation, either for a specific activity or for a particular project or on a pooled or consolidated basis for a series of related or unrelated activities or projects in such amounts as shall be determined by the authority for the purpose of enhancing the Public School Fund or financing qualified agricultural business enterprises, capital improvement facilities, educational facilities, health care facilities, housing developments, industrial enterprises, exports of goods and short-term advance funding of local government obligations, scientific and technical services businesses, technology-based enterprises, tourism enterprises, nonprofit organizations, energy efficiency projects, or any combination of those facilities or enterprises, or any interest in facilities, including without limitation leasehold interests in and mortgages on those facilities.

(2) The proceeds of and earnings from the bond issues, in amounts determined by the authority, may be deposited into the State Treasury to the credit of the fund.

(b) However, nothing in this subchapter and §§ 15-5-101 — 15-5-106, 15-5-201 — 15-5-211, and 15-5-213 shall be construed to authorize the authority to issue or sell revenue bonds or use the proceeds thereof to purchase, condemn, or otherwise acquire a utility plant or distribution system owned or operated by a regulated public utility.

History. Acts 1985, No. 1062, § 6.00; 1986 (2nd Ex. Sess.), No. 18, § 2; A.S.A. 1947, § 13-2906; Acts 1987, No. 900, § 5; 2007, No. 593, § 2; 2013, No. 1252, § 4.

Amendments. The 2013 amendment, in (a)(1), deleted "from time to time" following "to issue bonds" and inserted "energy efficiency projects" preceding "or any combination of those facilities."

15-5-318. Primary administration of federal allocations of private activity and governmental volume cap.

(a)(1) Except as provided in subsection (b) of this section, the Arkansas Development Finance Authority is hereby recognized as the primary administrator of federal allocations of private activity and governmental volume cap that are and may be allocated to the State of Arkansas by the United States Department of the Treasury.

(2) All plans, policies, and procedures developed for the administration of volume cap allocations will be subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) This section shall not apply to § 15-5-601 et seq.

History. Acts 2011, No. 814, § 1.

Subchapter 4 — Arkansas Development Finance Authority Bond Guaranty Act of 1985

SECTION.

15-5-411. Grants to fund.
15-5-422. Moneys for Correction Facilities Construction Fund.

15-5-411. Grants to fund.

(a) The Arkansas Development Finance Authority is authorized to accept grants to its Bond Guaranty Reserve Account from any state or federal agencies, municipalities, corporations, foundations, individual donees, or authorities, specifically including, but not limited to, allocations from the Treasurer of State as hereinafter provided.

(b) [Repealed.]

History. Acts 1985, No. 340, § 8; 1985, No. 505, § 8; A.S.A. 1947, § 13-2931; 2013, No. 1149, § 3.

Amendments. The 2013 amendment repealed (b).

15-5-422. Moneys for Correction Facilities Construction Fund.

(a) The Arkansas Development Finance Authority is authorized to accept moneys for the Correction Facilities Construction Fund from any source, including, but not limited to, allocations from the Treasurer of State as provided in this section.

(b) [Repealed.]

History. Acts 1988 (3rd Ex. Sess.), No. 31, § 2; 2013, No. 1149, § 4.

Amendments. The 2013 amendment repealed (b).

Subchapter 6 — Allocation of State Ceiling

Cross References. Primary administration of federal allocations of private activity and governmental volume cap, § 15-5-318.

Subchapter 11 — Arkansas Capital Access Program for Small Business Act of 1993

SECTION.
15-5-1103. Definitions.
15-5-1104. Contracts with financial institutions — Contents of contract.
15-5-1107. Enrollment of qualified loan — Procedure — Fee — Transfers to loss reserve account.
SECTION.
15-5-1108. Claims for reimbursement of losses — Amounts subject to reimbursement.
15-5-1109. Rules.
15-5-1110. Financial report of Capital Access Fund.
15-5-1111. Arkansas Credit Reserve Program.

15-5-1103. Definitions.

As used in this subchapter:

(1) "Financial institution" means all banks, savings and loan associations, corporations organized under either the Arkansas Development Finance Corporation Act, § 15-4-901 et seq., or the County and Regional Industrial Development Company Act, § 15-4-1201 et seq., and any other lending institutions approved by the Board of Directors of the Arkansas Development Finance Authority;

(2) "Loss reserve account" means an account in a financial institution that is established and maintained by the Arkansas Development Finance Authority for the benefit of a financial institution participating in the Arkansas Capital Access Program for Small Business or the Arkansas Credit Reserve Program;

(3) "Qualified business" means a person conducting business for profit or not-for-profit who is authorized to conduct business in the State of Arkansas; and

(4) "Qualified loan" means a loan or portion of a loan made by a financial institution to a qualified business for any business activity that has its primary economic effect in Arkansas.

History. Acts 1993, No. 733, § 3; 1993, No. 886, § 3; 1995, No. 487, § 1; 1999, No. 429, § 8; 2013, No. 1222, § 1.

Amendments. The 2013 amendment deleted (1), (4), and (7) and redesignated the remaining subdivisions accordingly; in present (1), substituted "pursuant to" for "under" and "board" for "Board of Directors of ... Finance Authority"; and rewrote present (2).

15-5-1104. Contracts with financial institutions — Contents of contract.

(a) The Arkansas Development Finance Authority may contract with a financial institution for the purpose of allowing the financial institution to participate in the Arkansas Capital Access Program for Small Business or the Arkansas Credit Reserve Program.

(b) A contract between the authority and a financial institution under this section shall provide:

(1) For the creation of a loss reserve account by the authority for the benefit of the financial institution;

(2) That the financial institution, a qualified business, and the authority will deposit moneys to the credit of the financial institution's loss reserve account when the financial institution makes a qualified loan to the qualified business;

(3) That the authority will pay moneys in the loss reserve account, not exceeding an amount equal to the total amount credited to the loss reserve account, to the financial institution to reimburse the financial institution for any financial loss incurred as a result of any qualified loan made under the Arkansas Capital Access Program for Small Business or the Arkansas Credit Reserve Program;

(4) That the liability of the authority to the financial institution under the contract is limited to the amount of money credited to the loss reserve account of the financial institution; and

(5) For such other terms as the authority may require.

History. Acts 1993, No. 733, § 4; 1993, No. 886, § 4; 2013, No. 1222, § 1.

Amendments. The 2013 amendment deleted "for capital access" in the section header; added "or the Arkansas Credit Reserve Program" in (a); inserted "financial" following "to the credit of the" in (b)(2); in (b)(3), inserted "financial" following "to reimburse the" and substituted "Arkansas Capital Access ... Credit Reserve Program" for "program"; and inserted "financial" following "account of the" in (b)(4).

15-5-1107. Enrollment of qualified loan — Procedure — Fee — Transfers to loss reserve account.

(a)(1) When a financial institution participates in the Arkansas Capital Access Program for Small Business or the Arkansas Credit Reserve Program, if the financial institution decides to enroll a qualified loan under the Arkansas Capital Access Program for Small Business or the Arkansas Credit Reserve Program to obtain the protection against loss provided by its loss reserve account, the financial institution shall notify the Arkansas Development Finance Authority of the qualified loan within ten (10) days after the qualified loan is made.

(2) The notification required under subdivision (a)(1) of this section shall be in writing on a form prescribed by the authority.

(b)(1) When making a qualified loan that will be enrolled under the Arkansas Capital Access Program for Small Business, the financial institution shall require the qualified business to which the qualified loan is made to pay a fee of not less than one and one-half percent (1.5%) of the principal amount of the qualified loan but not more than three and one-half percent (3.5%) of the principal amount.

(2) When making a qualified loan that will be enrolled under the Arkansas Credit Reserve Program, the financial institution shall require the qualified business to which the qualified loan is made to pay a fee of not less than one percent (1%) of the principal amount of the qualified loan.

(3)(A) The financial institution shall also pay a fee in an amount equal to the fee paid by the borrower.

(B) However, the financial institution may collect the amount of its fee from the qualified borrower.

(4) The authority and the financial institution shall allow a qualified business to pay the fees required under this subsection using sources other than sources of the qualified business.

(5) The financial institution shall deliver the fees collected under this subsection to the authority for deposit into the loss reserve account for the financial institution.

(c) When depositing fees collected under subsection (b) of this section to the credit of the loss reserve account for a financial institution, the authority shall transfer an amount that is not less than the total amount of the fees paid by the borrower and the financial institution from the Capital Access Fund to the loss reserve account for the financial institution.

History. Acts 1993, No. 733, § 7; 1993, No. 886, § 7; 2013, No. 1222, § 2.

Amendments. The 2013 amendment, in (a)(1), inserted "or the Arkansas Credit Reserve Program" following "Small Business" and "qualified" before "loan" and substituted "Arkansas Capital Access Program for Small ... Reserve Program" for "program in order"; inserted "required under subdivision (a)(1) of this section" in (a)(2); in (b)(1), substituted "Arkansas Capital Access Program for Small ... Reserve Program" for "program" and inserted "qualified" before "loan"; added (b)(2) and (b)(4) and redesignated the remaining subdivisions accordingly; and inserted "financial" before "institution" at the end of (b)(5) and (c).

15-5-1108. Claims for reimbursement of losses — Amounts subject to reimbursement.

(a) The Arkansas Development Finance Authority shall establish procedures under which financial institutions participating in the Arkansas Capital Access Program for Small Business or the Arkansas Credit Reserve Program may submit claims for reimbursement for losses incurred as a result of qualified loan defaults.

(b) Costs for which a financial institution may be reimbursed from its loss reserve account include qualified loan principal, accrued interest

on the principal, actual and necessary costs of seeking recovery of the principal amount and accrued interest on the principal, and any other related costs.

(c)(1) A financial institution may seek reimbursement of qualified loan losses before the liquidation of collateral from defaulted qualified loans.

(2) The financial institution shall repay its loss reserve account for any moneys received as reimbursement under this section if the financial institution recovers moneys from the borrower or from the liquidation of collateral for the defaulted qualified loan.

History. Acts 1993, No. 733, § 8; 1993, No. 886, § 8; 2013, No. 1222, § 2.

Amendments. The 2013 amendment inserted "or the Arkansas Credit Reserve Program" following "Small Business" in (a); inserted "qualified" before "loan" throughout (b) and (c); substituted "amount and accrued interest on the principal" for "amount and interest thereon" in (b); and substituted "before" for "prior to" in (c)(1).

15-5-1109. Rules.

The Arkansas Development Finance Authority may adopt such rules as it considers necessary to carry out its duties, functions, and powers relating to the Arkansas Capital Access Program for Small Business and the Arkansas Credit Reserve Program.

History. Acts 1993, No. 733, § 9; 1993, No. 886, § 9; 2013, No. 1222, § 2.

Amendments. The 2013 amendment inserted "and the Arkansas Credit Reserve Program" following "Small Business."

15-5-1110. Financial report of Capital Access Fund.

(a) At least annually, the Arkansas Development Finance Authority shall prepare a report conforming to generally accepted accounting principles that describes the financial condition of the Capital Access Fund and describes the results and economic impact of the Arkansas Capital Access Program for Small Business and the Arkansas Credit Reserve Program.

(b) The reports required under this section shall be submitted to the Governor and to the Legislative Council.

History. Acts 1993, No. 733, § 10; 1993, No. 886, § 10; 2013, No. 1222, § 2.

Amendments. The 2013 amendment substituted "At least annually" for "At least semiannually every calendar year" and added "and the Arkansas Credit Reserve Program" following "Small Business" in (a).

15-5-1111. Arkansas Credit Reserve Program.

The Arkansas Development Finance Authority shall establish the Arkansas Credit Reserve Program within the Arkansas Capital Access Program for Small Business.

History. Acts 2013, No. 1222, § 3.

Subchapter 16 — Arkansas Risk Capital Matching Fund Act of 2007

SECTION.
15-5-1603. Definitions.
15-5-1605. Funding of Arkansas Risk Capital Matching Fund.
15-5-1606. [Repealed.]
15-5-1607. Review committee.
15-5-1608. Annual report.

Effective Dates. Acts 2013, No. 1095, § 12: Apr. 11, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the continuous operation of the Arkansas Risk Capital Matching Fund is essential to maintaining the state's entrepreneurial infrastructure that is available to Arkansas citizens seeking to create employment opportunities in the state; that this act is necessary to meet immediate demands for funding under the program; and that this act is immediately necessary to provide for continuity of services to Arkansas entrepreneurs and immediate employment opportunities. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

15-5-1603. Definitions.

As used in this subchapter:

(1) "Accredited investor" means an accredited investor as defined in 17 C.F.R. § 230.215, as it existed on January 1, 2013;

(2) "Enterprise Development Account" means a separate account bearing that name and to be maintained within the Arkansas Risk Capital Matching Fund, the moneys in which account shall be used for the purposes and in the manner prescribed by this subchapter;

(3) "Equity capital" means capital invested in common stock or preferred stock, royalty rights, limited partnership interests, limited liability company interests, and any other equity, securities, or rights that evidence ownership or investment in private enterprises;

(4) "Near-equity capital" means capital invested in unsecured, undersecured, subordinated, or convertible loans or debt securities;

(5) "Review committee" means a committee composed of the President of the Arkansas Development Finance Authority, the President of the Arkansas Science and Technology Authority, and the Director of the Arkansas Economic Development Commission;

(6) "Technology-based enterprises" means a group of growing businesses in one (1) or more of the following business sectors:

(A) Advanced materials and manufacturing systems;

(B) Agriculture, food, and environmental sciences;

(C) Biotechnology, bioengineering, medical technology, and life sciences;

(D) Information technology;

(E) Transportation logistics; and

(F) Biobased products;

(7) "Technology Validation Account" means the separate account bearing that name and to be maintained as a separate account within the Arkansas Risk Capital Matching Fund, the moneys in which account shall be used for the purposes and in the manner prescribed by this subchapter; and

(8) "Venture Capital Investment Trust" means the public trust formed July 21, 2003, under § 28-72-201 et seq., the trustees of which are the President of the Arkansas Development Finance Authority, the President of the Arkansas Science and Technology Authority, and the Director of the Department of Finance and Administration, and that has as a principal purpose increasing the availability of equity capital and near-equity capital for emerging and expanding enterprises in the State of Arkansas.

History. Acts 2007, No. 1025, § 1; 2009, No. 791, § 2; 2013, No. 1095, § 4.

Amendments. The 2013 amendment rewrote (1); and deleted former (5) and redesignated former (6) through (9) as present (5) through (8).

15-5-1605. Funding of Arkansas Risk Capital Matching Fund.

(a) The trustees of the Venture Capital Investment Trust may accept moneys and funds for the Arkansas Risk Capital Matching Fund from any source.

(b) Moneys and funds received by the trustees of the trust for the fund shall be dedicated and used solely as authorized in this subchapter.

(c)(1) Moneys and funds received by the Arkansas Development Finance Authority, the Arkansas Science and Technology Authority, or the Arkansas Economic Development Commission designated for use or ownership by the fund shall be deposited to the trust and held in the Technology Validation Account and the Enterprise Development Account of the fund, as applicable and as specified in this subchapter, until used for the purposes of this subchapter.

(2)(A) Moneys deposited to the trust for the purposes of providing financial assistance to technology-based enterprises under this subchapter shall be allocated between the Technology Validation Account and the Enterprise Development Account according to a ratio recommended by the private sector advisory committee and approved by the trustees of the trust from time to time.

(B) Until a different ratio is approved by the trustees, moneys shall be allocated as follows:

(i) Seventy-five percent (75%) of the moneys shall be allocated to the Enterprise Development Account; and

(ii) Twenty-five percent (25%) of the moneys shall be allocated to the Technology Validation Account.

(d) The trustees of the trust will establish separate accounting and tracking and will be responsible for administering the moneys in the

Enterprise Development Account and the Technology Validation Account.

(e) Proceeds received by the trust as a return on or in full or partial liquidation of any investments made from either the Enterprise Development Account or the Technology Validation Account, subject to § 15-5-1607, shall be restricted in their use and dedicated and retained in either the Enterprise Development Account or the Technology Development Account or allocated between those accounts, as recommended by the private sector advisory committee and approved by the trustees of the trust and not commingled with other moneys held by the trust, and such proceeds may be used and reused from time to time for the purposes specified for moneys held in such accounts as provided by this subchapter.

(f) Moneys shall be withdrawn from either the Enterprise Development Account or the Technology Validation Account, as appropriate, upon requisition from the trustees of the trust for achieving the purposes of this subchapter.

(g)(1) Moneys and funds within the Technology Validation Account shall be used within the parameters expressed in this subsection for the purpose of assisting very early stage technology-based enterprises in developing or achieving one (1) or more of the following:

(A) A sound business plan;

(B) Market research;

(C) Marketing plans;

(D) Software or hardware and equipment relating to the particular technology or technologies on which the technology-based enterprise is being built;

(E) Development of laboratory, preclinical, or other testing procedures and results;

(F) Attaining proof of concept;

(G) Building of experimental or pilot-scale models of products or facilities; or

(H) Achieving other similar milestones required for the advancement of very early-stage technology-based enterprises as approved by the review committee.

(2) Financial assistance provided from the Technology Validation Account may be made in the form of equity capital or near-equity capital, as approved by the review committee.

(3) Financial assistance made from the Technology Validation Account may but shall not be required to be structured or approved based on a market rate-based rate of return or other benchmark rate of return expected to be achieved with respect to an investment, it being the primary purpose of investments made from the Technology Validation Account, within the reasonable discretion of the review committee, to assist in validating the technology or technologies on which these enterprises rely or are based, so that such enterprises may be better enabled to attract additional investments by angel investors or other investors.

(4) Financial assistance made from the Technology Validation Account shall be required to be matched by a contribution of equity capital or near-equity capital, or other sources of funds as set forth in this section, in some proportion as determined by the review committee on a case-by-case basis or as a matter of rule, but on not less than a one-to-nine (1:9) basis with not less than one dollar ($1.00) from the applicant technology-based business for every nine dollars ($9.00) from the account, from:

(A) One (1) or more owners of any technology-based enterprise receiving financial assistance from the Arkansas Risk Capital Matching Fund;

(B) Proceeds of state or federal research grants, including without limitation federal Small Business Innovation Research grants, Small Business Technology Transfer Program grants, Department of Defense research grants, National Institutes of Health research grants, or from any successor programs or agency grants; or

(C) Community-based investment sources.

(5) Any technology-based enterprise receiving financial assistance to be disbursed from the Technology Validation Account shall have a business valuation as represented by the technology-based enterprise and approved by the review committee of not more than two million dollars ($2,000,000) determined prior to the making of the investment from the Technology Validation Account and as the maximum valuation may be adjusted from year to year by the review committee to take into account the effects of inflation.

(6) The maximum investment that may be made to any one (1) technology-based enterprise from the Technology Validation Account shall be one hundred thousand dollars ($100,000), as may be adjusted from year to year by the review committee to take into account the effects of inflation.

(h)(1) Moneys and funds within the Enterprise Development Account shall be used within the parameters expressed in this subsection for the purpose of assisting early-stage technology-based enterprises in augmenting the investments made or proposed to be made in early-stage technology-based enterprises from accredited investors or owners of the applicant technology-based enterprise, or both, when established milestones for further development of early-stage technology-based enterprises are set forth in a business plan to be approved by the review committee.

(2) Financial assistance provided from the Enterprise Development Account may be made in the form of equity capital or near-equity capital, as approved by the review committee, and shall be on substantially the same terms and conditions as other investments proposed to be made by accredited investors or owners of the applicant technology-based enterprise, or both, contemporaneously with the assistance to be provided from the fund.

(3) Financial assistance made from the Enterprise Development Account shall be required to be matched by investments from accred-

ited investors, owners of the applicant technology-based enterprise, or both accredited investors and owners of the applicant technology-based enterprise in the proportion determined by the review committee on a case-by-case basis or as a matter of rule, but on not less than a four-to-one (4:1) basis with not less than four dollars ($4.00) from the applicant technology-based enterprise for every one dollar ($1.00) from the Enterprise Development Account.

(4) Any technology-based enterprise receiving financial assistance to be disbursed from the Enterprise Development Account shall have a business valuation as represented by the technology-based enterprise and approved by the review committee of not more than twenty-five million dollars ($25,000,000), determined prior to the making of the investment from the Enterprise Development Account and as the maximum valuation may be adjusted from year to year by the review committee to take into account the effects of inflation.

(5) The maximum investment that may be made to any one (1) technology-based enterprise from the Enterprise Development Account fund shall be seven hundred fifty thousand dollars ($750,000), as may be adjusted from year to year by the review committee to take into account the effects of inflation.

History. Acts 2007, No. 1025, § 1; 2009, No. 481, § 4; 2009, No. 791, § 3; 2013, No. 1095, §§ 5–8.

Amendments. The 2013 amendment deleted "private sector advisory committee and the" preceding "review committee" in (g)(1)(H); deleted "recommended by the private sector advisory committee and" preceding "approved by" in (g)(2); deleted "on recommendation of the private sector advisory committee" following "review committee" in (g)(5) and (6); and rewrote (h).

15-5-1606. [Repealed.]

Publisher's Notes. This section, concerning a private sector advisory committee, was repealed by Acts 2013, No. 1095, § 9. The section was derived from Acts 2007, No. 1025, § 1; 2009, No. 791, § 4.

15-5-1607. Review committee.

The review committee shall recommend to the trustees the payment of fees and expenses out of the Arkansas Risk Capital Matching Fund for the operation of the fund.

History. Acts 2007, No. 1025, § 1; 2009, No. 791, § 5; 2013, No. 1095, § 10.

Amendments. The 2013 amendment deleted former (2) and made stylistic changes.

15-5-1608. Annual report.

The trustees of the Venture Capital Investment Trust shall publish an annual report within five (5) months after the close of each fiscal year that shall:

(1) Include an annual audit of the Arkansas Risk Capital Matching Fund's activities conducted by the trustees with the assistance of the review committee;

(2) Be presented in writing, and by testimony if requested, to the:

(A) Governor;

(B) House Committee on Agriculture, Forestry, and Economic Development;

(C) Senate Committee on Agriculture, Forestry, and Economic Development;

(D) Arkansas Development Finance Authority;

(E) Arkansas Science and Technology Authority; and

(F) Arkansas Economic Development Commission; and

(3) Document and review the progress of the trustees of the trust and the review committee in implementing the investment and financial assistance activities under this subchapter.

History. Acts 2007, No. 1025, § 1; 2009, No. 791, § 6; 2013, No. 1095, § 11.

Amendments. The 2013 amendment substituted "Capital" for "Capitol" and deleted "and the private sector advisory committee" following "review committee" in (1).

Subchapter 18 — State Entity Energy Efficiency Project Bond Act

SECTION.
15-5-1801. Title.
15-5-1802. Purpose.
15-5-1803. Definitions.
15-5-1804. Issuance of bonds.
15-5-1805. Terms and conditions.
15-5-1806. Tax exemption.
15-5-1807. Refunding bonds.
15-5-1808. Applicability.
15-5-1809. Subchapter supplemental to other laws.
15-5-1810. Rules.

15-5-1801. Title.

This subchapter shall be known as the "State Entity Energy Efficiency Project Bond Act".

History. Acts 2013, No. 1252, § 1.

15-5-1802. Purpose.

(a) The purpose of this subchapter is to provide financing for energy efficiency projects for state entities under Amendment 89 to the Arkansas Constitution.

(b) It is found and determined that:

(1) This subchapter is in furtherance of a public purpose; and

(2) The duties imposed upon the state entities and the Arkansas Development Finance Authority in this subchapter are in furtherance of the conservation of the environment, efficient government spending, and the protection of the public health, welfare, and safety.

History. Acts 2013, No. 1252, § 1.

15-5-1803. Definitions.

As used in this subchapter:

(1) "Bonds" means all bonds, notes, certificates, financing leases, or other interest-bearing instruments or evidences of indebtedness that are issued under this subchapter;

(2) "Energy efficiency project" means an improvement, repair, alteration, or renovation of a new building design or an existing building or facility owned or operated by a state entity or any equipment, fixture, or furnishing to be added to or used in a building or facility owned or operated by a state entity that is designed to reduce energy consumption or operating costs; and

(3) "State entity" means:

(A) The state; and

(B) An agency, board, commission, or instrumentality of the state.

History. Acts 2013, No. 1252, § 1.

15-5-1804. Issuance of bonds.

(a) Upon the request of a state entity, the Arkansas Development Finance Authority may issue bonds for the purpose of:

(1) Providing financing or refinancing for an energy efficiency project;

(2) Refunding bonds issued under this subchapter; and

(3) Paying the costs of issuing the bonds.

(b)(1) The bonds may be:

(A) Secured by a pledge of the savings derived from the energy efficiency project; and

(B) Paid from general revenues, special revenues, revenues derived from taxes, or any other revenues available to the state entity.

(2) A state entity may pledge or assign any guaranteed energy savings contract to secure the bonds.

(3) A state entity may enter into a long-term loan agreement with the authority to secure the bonds.

(4) Notwithstanding any law to the contrary, a state entity may use maintenance and operations appropriations to pay for an energy efficiency project.

(c)(1)(A) Bonds issued under this subchapter shall:

(i) Be authorized by a resolution of the state entity and the Board of Directors of the Arkansas Development Finance Authority; and

(ii) Have the form and characteristics and bear the designations provided in the resolution and permitted under this chapter, including without limitation §§ 15-5-301 — 15-5-317.

(B) The resolution under subdivision (c)(1)(A)(i) of this section may include the provisions and covenants that the state entity or the board determines to be necessary.

(2) The board may:

(A) Require additional proceedings; and

(B) Approve and have executed any other proceedings, agreements, trust agreements, or other instruments necessary or convenient to the issuance of the bonds.

History. Acts 2013, No. 1252, § 1.

15-5-1805. Terms and conditions.

(a) The Arkansas Development Finance Authority shall be the issuer of bonds for energy efficiency projects under this subchapter.

(b)(1) The authority shall not issue bonds under this subchapter unless:

(A) A state entity has:

(i) Applied for approval; and

(ii) Submitted a resolution to the authority authorizing the issuance of bonds.

(B) The authority determines that the energy savings to be realized from the energy efficiency project and other available revenues are sufficient to fund the requested bond issue.

(2)(A) Upon approval, the authority shall proceed with the issuance of the bonds under this subchapter.

(B) If the bonds are not approved, the state entity may resubmit a request for approval of the issuance of bonds, and a resubmitted request shall be handled in the same manner as the initial request under this section.

History. Acts 2013, No. 1252, § 1.

15-5-1806. Tax exemption.

The interest on the bonds issued under this subchapter shall be exempt from state, county, and municipal income, inheritance, and estate taxes.

History. Acts 2013, No. 1252, § 1.

15-5-1807. Refunding bonds.

(a) The Arkansas Development Finance Authority may provide by resolution for the issuance of refunding bonds to refund outstanding bonds issued under this subchapter and any accrued interest on those bonds.

(b) The authority may:

(1) Sell the refunding bonds and use the proceeds to retire the outstanding bonds issued under this subchapter;

(2) Exchange the refunding bonds for the outstanding bonds; and

(3) Refund the bonds in the manner provided by any other applicable statute.

History. Acts 2013, No. 1252, § 1.

15-5-1808. Applicability.

This subchapter:
(1) Applies only to the following governmental units:
(A) The state; and
(B) An agency, board, commission, or instrumentality of the state; and
(2) Does not apply to the following governmental units:
(A) A county, municipality, school district, or other political subdivision of the state;
(B) A special assessment or taxing district established under the laws of the state; and
(C) An agency, board, commission, or instrumentality of an entity listed in subdivisions (2)(A) or (2)(B) of this section.

History. Acts 2013, No. 1252, § 1.

15-5-1809. Subchapter supplemental to other laws.

This subchapter is:
(1) Supplemental to other laws on the subject, and the Arkansas Development Finance Authority may use provisions of other applicable laws in the issuance of bonds and other obligations under this subchapter; and
(2) Sufficient authority for the issuance of bonds and the performance of all other acts and procedures authorized by this subchapter.

History. Acts 2013, No. 1252, § 1.

15-5-1810. Rules.

The Arkansas Development Finance Authority may promulgate rules to implement this subchapter.

History. Acts 2013, No. 1252, § 1.

CHAPTER 6

ARKANSAS RURAL DEVELOPMENT PROGRAM ACT

15-6-106. Arkansas Rural Development Commission — Department of Rural Services — Functions, powers, and duties.

A.C.R.C. Notes. Acts 2012, No. 248, § 21, provided: "GRANT REVIEW. The Arkansas Economic Development Commission (AEDC) shall review all applications for grant funds from the Rural Development Set-Aside and shall certify to the Department of Rural Services those applications eligible for grant funds under AEDC and federal guidelines. The Department of Rural Services alone shall decide which grant applications will be funded, and AEDC shall disburse grant funds from the Rural Development Set-Aside to those applicants receiving final approval by the Department of Rural Services. AEDC and the Department of Rural

Services shall promulgate rules and regulations governing the application for and disbursement of grant funds from the Rural Development Set-Aside, and an annual report of the disposition of these grant funds shall be made to the Legislative Joint Auditing Committee.

"The provisions of this section shall be in effect only from July 1, 2012 through June 30, 2013."

Acts 2013, No. 1395, § 17, provided: "RURAL DEVELOPMENT. From the funds appropriated for Community Development Grants within the Community Development Program in this Act for Community Assistance-Federal, the Arkansas Economic Development Commission (AEDC) shall allocate $500,000 per fiscal year to the Rural Development Set-Aside from the Economic Development Set-Aside, as defined in AEDC's Consolidated Plan filed with the federal Department of Housing and Urban Development. Funds allocated to the Rural Development Set-Aside are to be used exclusively for grants to rural communities as defined in the Consolidated Plan.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Acts 2013, No. 1395, § 18, provided: "GRANT REVIEW. The Arkansas Economic Development Commission (AEDC) shall review all applications for grant funds from the Rural Development Set-Aside and shall certify to the Department of Rural Services those applications eligible for grant funds under AEDC and federal guidelines. The Department of Rural Services alone shall decide which grant applications will be funded, and AEDC shall disburse grant funds from the Rural Development Set-Aside to those applicants receiving final approval by the Department of Rural Services. AEDC and the Department of Rural Services shall promulgate rules and regulations governing the application for and disbursement of grant funds from the Rural Development Set-Aside, and an annual report of the disposition of these grant funds shall be made to the Legislative Joint Auditing Committee.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

15-6-107. Assistance programs and grants.

A.C.R.C. Notes. Acts 2013, No. 150, § 8, provided: "GENERAL IMPROVEMENT PROJECTS ADMINISTRATIVE FEE. The Department of Rural Services is authorized to retain and utilize for administrative cost purposes up to one and one half percent (1.5%) of the total amount of any General Improvement Fund moneys received for projects authorized for disbursement through the department by the General Assembly."

Acts 2013, No. 150, § 9, provided: "FUND TRANSFER. Upon request of the Director of the Department of Rural Services to the Chief Fiscal Officer of the State, the Chief Fiscal Officer of the State, from time to time, shall cause to be transferred on his books and those of the State Treasurer and Auditor of State, an amount not to exceed one and one half percent (1.5%) from the various sub funds created in any General Improvement Fund, established for disbursement through the Department of Rural Services, to the Miscellaneous Agencies Fund Account.

"The funds transferred to the Miscellaneous Agencies Fund Account from the various sub funds established in any General Improvement Fund pursuant to this section shall be made available and utilized solely by the Department of Rural Services for maintenance and general operations costs."

Acts 2013, No. 150, § 10, provided: "ADMINISTRATIVE EXPENSES. Any unexpended balance of funds remaining on June 30, of each fiscal year in the Miscellaneous Agencies Fund Account for the Department of Rural Services that were transferred from the various sub funds created in any General Improvement Fund for the administration of general improvement fund projects shall remain in the Miscellaneous Agencies Fund Account and made available to the Department of Rural Services and utilized for the same purpose during the following fiscal year."

Acts 2013, No. 150, § 11, provided: "COUNTY FAIR GRANTS. The Department of Rural Services shall develop the

necessary rules and regulations for the disbursement of matching fund grants to county fairs for the construction, renovation and/or improvements to county fair grounds. The grants shall be matched on a 50/50 basis. The match may be cash or in-kind. No county fair shall receive more than $30,000 for the biennium."

Acts 2013, No. 150, § 12, provided: "GRANT AWARD CRITERIA. The Department of Rural Services shall promulgate regulations establishing the criteria to be utilized in determining to whom grants will be made under this Act. Subject to the approval of the Governor, and approval by the Arkansas Legislative Council or the Joint Budget Committee, the Department of Rural Services shall distribute the grants.

"Determining the maximum number of employees and the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation act(s) for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization law. Further, the General Assembly has determined that the Department of Rural Services may operate more efficiently if some flexibility is provided to the Department of Rural Services authorizing broad powers under this Section. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

CHAPTER 10

ENERGY CONSERVATION AND DEVELOPMENT

SUBCHAPTER.

2. Arkansas Energy Reorganization and Policy Act of 1981.
4. Southern States Energy Compact.
9. Arkansas Clean-burning Motor Fuel Development Act.

Subchapter 2 — Arkansas Energy Reorganization and Policy Act of 1981

SECTION.

15-10-205. Arkansas Energy Office — Powers and duties.

15-10-205. Arkansas Energy Office — Powers and duties.

(a) The Arkansas Energy Office shall coordinate authority and planning by the state in energy-related matters and shall have the following duties and responsibilities:

(1) Coordinating energy matters between and among all state agencies;

(2) Compiling an energy profile for the state which includes, but is not limited to, data on the demand for and supply of renewable and nonrenewable energy resources;

(3) Collecting data on, planning, and administering emergency plans, when needed, to allocate the distribution of motor fuels, aviation

fuels, heating oil, and propane by wholesale jobbers and dealers within the state;

(4) Collecting data on, planning, and administering emergency plans, when needed, for the conservation or rationing of motor fuels;

(5) Proposing executive and legislative measures on energy-related matters;

(6) Providing comments before state and federal regulatory bodies on energy matters mandated by federal and state agencies;

(7) Monitoring and evaluating existing and proposed actions, laws, policies, regulations, and orders of the state and federal governments in energy matters relevant to Arkansas;

(8) Securing and administering federal energy grants for agencies of state government and monitoring and publicizing federal energy grants available to the private sector;

(9) Carrying out energy-related administrative and program functions established and required by federal law, regulations, or guidelines when applicable in Arkansas;

(10) Developing and administering conservation programs directed toward reducing wasteful, inefficient uses of energy;

(11) Promulgating reasonable rules and regulations for the purpose of implementing and prescribing enforcement for thermal and lighting efficiency standards for new building construction in the state;

(12) Developing and proposing thermal and lighting efficiency improvement programs for all buildings owned by the state and prescribing reasonable thermal and lighting efficiency criteria applicable to the leasing of buildings by all state agencies; and

(13) Administering a public energy awareness program to inform and demonstrate to the public the importance and methods of utilizing energy conservation and renewable energy resources.

(b) The office shall have the authority to:

(1) Provide comments before state and federal bodies in energy matters relevant to Arkansas;

(2) Receive and expend funds obtained from the federal government or other sources by means of contracts, grants, awards, payment for services, and other devices in support of energy-related programs, studies, or other operations beneficial to the State of Arkansas;

(3) Promulgate reasonable rules for the purpose of:

(A) Implementing and prescribing enforcement for thermal and lighting efficiency standards for new building construction;

(B) Requiring a city or county that issues building permits for new building construction to adopt the Arkansas Energy Code for New Building Construction; and

(C) Complying with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

(4) Propose programs for the implementation of thermal and lighting efficiency improvements for all buildings owned by the state and prescribe reasonable thermal and lighting efficiency criteria applicable to the leasing of buildings by all state agencies; and

(5) Promulgate rules and regulations for the purpose of administering emergency plans as referred to in subdivision (a)(4) of this section.

(c) Prior to the final adoption of the rules and regulations prescribing thermal and lighting efficiency standards for new building construction referred to in subdivision (b)(3) of this section, the Joint Committee on Energy of the General Assembly shall review and comment on the rules and regulations of the office.

History. Acts 1981, No. 7, § 3; A.S.A. 1947, § 5-938; Acts 1993, No. 234, § 1; 1993, No. 248, § 1; 2009, No. 1196, §§ 1, 2; 2011, No. 802, § 1.

Amendments. The 2011 amendment deleted "as it existed on January 1, 2009" following "New Building Construction" in (b)(3)(B); and added (b)(3)(C).

Subchapter 4 — Southern States Energy Compact

SECTION.

15-10-402. Arkansas board members.

15-10-402. Arkansas board members.

(a) The three (3) Arkansas members on the Southern States Energy Board shall be selected as follows:

(1) The Governor shall be ex officio a member of the board, or the Governor, at his or her discretion, may name some other resident elector of this state to serve on the board in his or her place, to serve at the pleasure of the Governor;

(2)(A) The Speaker of the House of Representatives shall appoint one (1) resident elector of this state to serve on the board.

(B) This member shall serve until the convening of the next regular session of the General Assembly or until his or her successor is appointed; and

(3)(A) The President Pro Tempore of the Senate shall appoint one (1) resident elector of this state to serve on the board.

(B) This member shall serve until the convening of the next regular session of the General Assembly or until his or her successor is appointed.

(b) Vacancies on the board shall be filled in the manner provided herein for the initial appointment.

(c)(1) Members of the board appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall be reimbursed for their reasonable and necessary expenses for meals, lodging, travel, and related expenses for attending board meetings, with these expenses to be paid from funds available to the house of the member of the General Assembly appointing the respective member of the board.

(2)(A) The Governor or the member of the board appointed to serve in the place of the Governor shall be reimbursed for travel expenses in attending board meetings.

(B) These expenses shall be payable from funds available for the support of the Governor's office or from funds available to a state

agency if the member appointed to serve on the board in the place of the Governor is an official or employee of a state agency.

History. Acts 1961, No. 429, § 2; 1979, No. 1112, § 2; A.S.A. 1947, § 9-1102; Acts 1997, No. 1357, § 2; 2013, No. 1287, § 3.

A.C.R.C. Notes. Acts 2013, No. 1287, § 3, both added and struck the phrase "for a term of two (2) years" at the end of subdivision (a)(3)(A) of this section.

Amendments. The 2013 amendment rewrote (2)(A) and (3)(A); in (c)(1), substituted "Members of the board appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate" for "Legislative members"; and at the end of (c)(1), substituted "the house" for "their respective houses," inserted " member of the" preceding "General Assembly" and added "appointing the respective member of the board."

Subchapter 9 — Arkansas Clean-burning Motor Fuel Development Act

SECTION.
15-10-901. Title.
15-10-902. Definitions.
15-10-903. Rebate for refueling stations.
15-10-904. Rebates for qualified clean-burning motor vehicle fuel property.

15-10-901. Title.

This subchapter shall be known and may be cited as the "Arkansas Clean-burning Motor Fuel Development Act".

History. Acts 2013, No. 532, § 1.

15-10-902. Definitions.

As used in this subchapter:

(1) "Compressed natural gas" means compressed natural gas that is to be delivered to a motor vehicle at a pressure of at least three thousand pounds per square inch (3,000 psi);

(2) "Compressed natural gas refueling station" means property that:

(A) Is directly related to the delivery of compressed natural gas into the fuel tank of a licensed motor vehicle, including without limitation the compression equipment, storage vessels, quality control equipment, and dispensers for compressed natural gas;

(B) Is available to the public twenty-four (24) hours each day;

(C) Is metered on a gasoline gallon equivalent basis; and

(D) Contains a credit card reader that allows for the use of a credit card to purchase the compressed natural gas;

(3) "Diesel gallon equivalent" means six and twenty-two hundredths pounds (6.22 lbs.) of liquefied natural gas;

(4) "Gasoline gallon equivalent" means five and sixty-six hundredths pounds (5.66 lbs.) of compressed natural gas or one hundred twenty-six and sixty-seven hundredths cubic feet (126.67 cu. ft.) of natural gas;

(5) "Liquefied natural gas" means natural gas that is super-cooled into a liquid fuel that is used primarily in medium-duty and heavy-duty vehicles;

(6) "Liquefied natural gas refueling station" means property that:

(A) Is directly related to the delivery of liquefied natural gas into the fuel tank of a licensed motor vehicle, including without limitation the compression equipment, refrigeration equipment, storage vessels, and dispensers for liquefied natural gas;

(B) Is available to the public twenty-four (24) hours each day;

(C) Is metered on a diesel gallon equivalent basis; and

(D) Contains a credit card reader that allows for the use of a credit card to purchase the liquefied natural gas;

(7)(A) "Liquefied petroleum gas" means gas derived from petroleum or natural gas that is:

(i) In a gaseous state at normal atmospheric temperature and pressure but may be maintained in a liquid state at normal atmospheric temperature by the application of sufficient pressure; and

(ii) Normally stored as a liquid under pressure.

(B) "Liquefied petroleum gas" does not include pentane, gasoline, or oil;

(8) "Liquefied petroleum gas refueling station" means property that:

(A) Is directly related to the delivery of liquefied petroleum gas into the fuel tank of a licensed motor vehicle, including without limitation the compression equipment, storage vessels, and dispensers for liquefied petroleum gas;

(B) Is available to the public twenty-four (24) hours each day;

(C) Is metered on a gasoline gallon equivalent basis; and

(D) Contains a credit card reader that allows for the use of a credit card to purchase the liquefied petroleum gas;

(9) "Motor vehicle" means a motor vehicle originally designed by the manufacturer to operate lawfully and principally on highways, roads, and streets;

(10) "Qualified clean-burning motor vehicle fuel" means a hydrogen fuel cell, compressed natural gas, liquefied natural gas, or liquefied petroleum gas; and

(11) "Qualified clean-burning motor vehicle property" means:

(A) New equipment that:

(i) Is installed:

(a) By a certified mechanic;

(b) On a motor vehicle with a model year of 2012 or later; and

(c) To convert a motor vehicle propelled by gasoline or diesel fuel to be propelled by a qualified clean-burning motor vehicle fuel;

(ii) Is approved by the United States Environmental Protection Agency under 40 C.F.R. Part 85 Subpart F and 40 C.F.R. Part 86 Subpart S; and

(iii) Has not been used to modify or retrofit any other motor vehicle propelled by gasoline or diesel fuel;

(B) The portion of the basis of a motor vehicle with a model year of 2012 or later that was originally equipped to be propelled by a qualified clean-burning motor vehicle fuel that is attributable to the:

(i) Storage of the qualified clean-burning motor vehicle fuel;

(ii) Delivery of the qualified clean-burning motor vehicle fuel to the motor vehicle's engine; and

(iii) Exhaust of gases from the combustion of the qualified clean-burning motor vehicle fuel; or

(C) New property that:

(i) Is directly related to the compression and delivery of natural gas from a private home or residence for noncommercial purposes into the fuel tank of a motor vehicle propelled by compressed natural gas; and

(ii) Has not been previously installed or used at another location to refuel motor vehicles powered by natural gas.

History. Acts 2013, No. 532, § 1.

15-10-903. Rebate for refueling stations.

(a) The Arkansas Energy Office of the Arkansas Economic Development Commission shall offer a rebate for each approved compressed natural gas refueling station, liquefied natural gas refueling station, and liquefied petroleum gas refueling station in an amount equal to the lesser of seventy-five percent (75%) of the qualifying costs of the refueling station or four hundred thousand dollars ($400,000).

(b) The rebate offered under this section does not apply to the following:

(1) The cost of land for the compressed natural gas refueling station, liquefied natural gas refueling station, or liquefied petroleum gas refueling station;

(2) The cost of any buildings for the compressed natural gas refueling station, liquefied natural gas refueling station, or liquefied petroleum gas refueling station; and

(3) Any costs not directly associated with the compression, storage, or dispensing of compressed natural gas or the storage and dispensing of liquefied natural gas or liquefied petroleum gas.

(c) To be eligible for a rebate under this section, a person or entity shall complete and submit an application for the rebate on the forms prescribed by the office.

(d) The office shall ensure that the following criteria are met before providing a rebate under this section:

(1) The applicant is registered as a business entity with the Secretary of State;

(2) The applicant holds a wholesale fuel distribution permit from the Department of Finance and Administration;

(3) The dispenser at the compressed natural gas refueling station, liquefied natural gas refueling station, or liquefied petroleum gas refueling station has been inspected and certified by the State Division of Weights and Measures of the Arkansas Bureau of Standards of the State Plant Board or a registered service agency of the division; and

(4) The applicant meets the siting requirements stated in NFPA 52: Vehicular Gaseous Fuel Systems Code, 2013 Edition.

History. Acts 2013, No. 532, § 1.

A.C.R.C. Notes. The acronym "NFPA" in subdivision (c)(4) of this section refers to the National Fire Protection Association.

15-10-904. Rebates for qualified clean-burning motor vehicle fuel property.

(a) The Arkansas Energy Office of the Arkansas Economic Development Commission shall offer a rebate for qualified clean-burning motor vehicle fuel property.

(b)(1) The rebate for qualified clean-burning motor vehicle fuel property as defined in § 15-10-902(11)(A) and (B) is the lesser of fifty percent (50%) of the cost of the qualified clean-burning motor vehicle fuel property or four thousand five hundred dollars ($4,500) for each motor vehicle.

(2) A qualified clean-burning motor vehicle fuel property is not eligible for a rebate under this subsection if the person or entity applying for the rebate has claimed another rebate or incentive for the same motor vehicle under any other state rebate or incentive program.

(c) The rebate for qualified clean-burning motor vehicle fuel property as defined in § 15-10-902(11)(C) is the lesser of fifty percent (50%) of the cost of the qualified clean-burning motor vehicle fuel property or two thousand five hundred dollars ($2,500) for each qualified clean-burning motor vehicle fuel property.

History. Acts 2013, No. 532, § 1.

CHAPTER 11

PUBLICITY AND TOURISM

SUBCHAPTER.

2. State Parks, Recreation, and Travel Commission.
7. Wildlife Observation Trails Pilot Program.
8. Arkansas Great Places Program.
9. Arkansas Arts and Cultural Districts Act.

Subchapter 2 — State Parks, Recreation, and Travel Commission

SECTION.

15-11-202. Members generally.

Effective Dates. Acts 2011, No. 637, § 2: Mar. 23, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that while the Arkansas State Parks, Recreation, and Travel Commission is responsible for publicizing Arkansas's historic background, a historian is not designated as a member of the commission; and that this act should become effective as soon as possible to better enable the commission to perform its duties. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor

vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

15-11-202. Members generally.

(a) The State Parks, Recreation, and Travel Commission shall consist of:

(1)(A) Thirteen (13) regular members, of whom at least:

(i) One (1) shall be an active newspaper staff member, editorial worker, or editor;

(ii) One (1) shall be active in radio or television broadcasting;

(iii) One (1) shall be active in any recognized news media in the state or in the video service provider industry;

(iv) Two (2) whose primary occupation shall embrace the recreational or travel field of endeavor; and

(v) One (1) shall be an historian having knowledge of Arkansas's historic background.

(B)(i) Vacancies occurring on the commission after August 1, 1985, shall be filled by the Governor in such manner that at least five (5) of the members of the commission shall be owners or operators of food service, lodging, or travel-oriented businesses.

(ii) A travel-oriented business includes, but is not limited to, boat docks, marinas, theme parks, camp grounds, tourist resorts, caves, caverns, highway gift shops, and firms commonly known as tourist attractions.

(iii) The Governor also shall assure that at least one (1) of the members of the commission is active in the news media in this state.

(iv) Subdivisions (a)(1)(B)(i)-(iii) of this section shall not cut short the term of any member of the commission serving as such on August 1, 1985, but shall be implemented by the filling of vacancies;

(2) One (1) member who is sixty (60) years of age or over, who shall serve as a representative of the elderly and who shall not be actively engaged in or retired from any of the professions set out in subdivision (a)(1)(A) of this section; and

(3) One (1) or more commissioner emeritus.

(b) Each member shall be a resident elector of this state and shall be appointed by the Governor by and with the advice and consent of the Senate.

(c) Each of the four (4) congressional districts of the state, as established by Acts 1971, No. 23 [repealed], shall be represented on this commission.

(d)(1) All members appointed to the commission shall be appointed for terms of six (6) years.

(2) The term of office shall commence on January 15 following the expiration date and shall end on January 14 of the sixth year following the year in which the regular term commenced.

(e) Any vacancies arising in the membership of the commission for any reason other than expiration of the regular terms for which members were appointed shall be filled by appointment by the Governor and be thereafter effective until the expiration of their regular terms, subject, however, to the confirmation of the Senate when it is next in session.

(f) Before entering upon their respective duties, each member of the commission shall take and subscribe and file in the office of the Secretary of State an oath to support the Constitution of the United States and the Constitution of the State of Arkansas and to faithfully perform the duties of the office upon which he or she is about to enter.

(g) Members of the commission shall not receive compensation for their services but may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1955, No. 330, §§ 1-3, 6; 1969, No. 85, § 1; 1971, No. 86, § 1; 1973, No. 819, § 1; 1975, No. 132, §§ 1-3; 1975, No. 272, § 3; 1975, No. 478, § 3; 1975 (Extended Sess., 1976), No. 1076, § 1; 1979, No. 684, § 1; 1981, No. 638, § 1; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; 1985, No. 465, §§ 1, 2; 1985, No. 935, § 1; A.S.A. 1947, §§ 6-616, 6-623 — 6-626, 9-202, 9-203 — 9-203.4, 9-204, 9-207; reen. Acts 1987, No. 862, § 1; reen. 1987, No. 868, § 1; 1997, No. 250, § 102; 2011, No. 637, § 1; 2013, No. 141, § 1.

Amendments. The 2011 amendment substituted "Thirteen (13)" for "Twelve (12)" in (a)(1)(A); and added (a)(1)(A)(v).

The 2013 amendment inserted "or in the video service provider industry" in (a)(1)(A)(iii).

Subchapter 7 — Wildlife Observation Trails Pilot Program

SECTION.
15-11-701. Title.
15-11-702. Findings.
15-11-704. The Wildlife Observation Trails Pilot Program.
15-11-706. Wildlife Observation Trails Pilot Program Advisory Board — Created.
15-11-707. Funding.
15-11-708. Grant distribution.
15-11-709. Reporting.

15-11-701. Title.

This subchapter shall be known and may be cited as the "Wildlife Observation Trails Pilot Program".

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 1.

Amendments. The 2011 amendment made no change in the section.

15-11-702. Findings.

The General Assembly finds that:

(1) Arkansas is a state of natural cultural and scenic beauty, natural resources, and wildlife;

(2) Enjoyment of the natural cultural and scenic beauty, the natural resources, and the observation of wildlife in Arkansas is a favorite pastime of many;

(3) There will be a positive impact on the physical, intellectual, and emotional development of our youth through enhanced access to the state's natural resources and wildlife by establishing wildlife observation trails in local communities;

(4) The potential for growth in the tourism sector of the economy through the development of trails is significant;

(5) The growth of the economy through the development of trails is "green growth" that is good for the environment;

(6) The development of trails is also good for encouraging and promoting a healthy lifestyle for our citizens;

(7) Wildlife observation trails rank high among the list of local amenities that an industry desires when it considers locating within the state;

(8) In permitted hunting and fishing areas of the state, the creation of wildlife observation trials can improve access to those activities; and

(9) The Department of Parks and Tourism and the Arkansas State Game and Fish Commission are interested in continuing a Wildlife Observation Trails Pilot Program to ignite interest in the natural cultural and scenic beauty and natural resources of Arkansas and to promote economic development in a healthy and environmentally sound manner.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 2.

Amendments. The 2011 amendment substituted "continuing" for "developing" in (9).

15-11-704. The Wildlife Observation Trails Pilot Program.

(a) There is continued a program to be known as the "Wildlife Observation Trails Pilot Program".

(b) The program shall be developed, implemented, and administered by the Department of Parks and Tourism with the assistance of the Arkansas State Game and Fish Commission.

(c) The purpose of the program is to:

(1) Increase public awareness of the conservation of wildlife and other natural resources;

(2) Utilize the natural beauty, natural resources, and wildlife in the landscape of Arkansas in a positive, healthful manner;

(3) Attract tourism and the tourism industry through the enjoyment and utilization of the trails; and

(4) Promote harmonious interaction between communities and industry and the natural environment.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 3.

Amendments. The 2011 amendment substituted "continued" for "created" in (a).

15-11-706. Wildlife Observation Trails Pilot Program Advisory Board — Created.

(a)(1) There is continued an advisory body to the Department of Parks and Tourism to be known as the "Wildlife Observation Trails Pilot Program Advisory Board" to provide recommendations to the Director of the Department of Parks and Tourism and the Arkansas State Game and Fish Commission to develop criteria to establish and fund the development and maintenance of wildlife observation trails through the distribution of grant moneys under this subchapter.

(2) The board is a voluntary board that consists of seven (7) members that are appointed by the Director of the Department of Parks and Tourism as follows:

(A) One (1) representative of the Arkansas Economic Development Commission;

(B) One (1) representative of the Arkansas State Game and Fish Commission;

(C) One (1) representative of the Arkansas Recreation and Parks Association;

(D) One (1) representative of the Association of Arkansas Counties;

(E) One (1) representative of the Arkansas Game and Fish Foundation;

(F) One (1) representative of the Arkansas Audubon Society; and

(G) One (1) representative of the Arkansas Municipal League.

(b) The Director of the Department of Parks and Tourism shall:

(1) Assist the board in establishing criteria consistent with § 15-11-705 by the promulgation of rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., for recommendation of a grant for the development of a wildlife observation trail in the Wildlife Observation Trails Pilot Program; and

(2) Seek recommendations from the board for the selection of a grant recipient.

(c) The Director of the Department of Parks and Tourism shall consult with the Director of the Arkansas State Game and Fish Commission to establish criteria for the development and maintenance of wildlife observation trails in the wildlife management areas that are managed by the Arkansas State Game and Fish Commission.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 4.

Amendments. The 2011 amendment substituted "continued" for "created" in (a)(1); and rewrote (b) and (c).

15-11-707. Funding.

(a)(1) The Arkansas State Game and Fish Commission agrees to make available an amount not to exceed one million dollars ($1,000,000) for fiscal year 2011-2012 for the Wildlife Observation Trails Pilot Program for the development of wildlife observation trails under this subchapter from moneys that the commission has received from oil and gas leases in the Fayetteville Shale.

(2) The General Assembly recognizes that the agreement under subdivision (a)(1) of this section does not constitute:

(A) A mandate by the General Assembly;

(B) An appropriation of funds by the General Assembly; or

(C) A waiver or relinquishment by commission of the authority vested in the commission under Arkansas Constitution, Amendment 35.

(3) Before moneys are distributed under this section, the commission shall retain the right to approve or disapprove the release of moneys.

(4) Future funding for the program is subject to the review under subdivisions (b)(2) and (3) of this section and shall be determined by and distributed from the availability of royalties from oil and gas leases in the Fayetteville Shale that the commission receives or from money from other sources.

(b)(1) The Department of Parks and Tourism and the commission agree to execute a memorandum of understanding to delineate each party's participation, obligation, and cooperation in the program sufficient to fulfill the requirements of this subchapter.

(2) The subjects agree to review the memorandum of understanding under subdivision (b)(1) of this section every two (2) years to evaluate the effectiveness and success of the program and to reexamine the need for moneys to be made available to the grant recipients to fund the development and maintenance of wildlife observation trails.

(3) If both the commission and the department agree that the program meets or exceeds the purpose of the legislation or agree that to discontinue the program would result in an undue disruption of progress, then the parties shall reexecute a memorandum of understanding under subdivision (b)(1) of this section.

(c) An agreement for funding in a memorandum of understanding under subdivision (b)(1) of this section and a distribution of money under this section requires the final approval of the commission.

(d) The maximum grant amount for a single project funded under the program is one hundred thousand dollars ($100,000) per year.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 5.

Amendments. The 2011 amendment, in (a)(1), inserted "an amount not to exceed" and substituted "2011-2012" for "2009-2010 and one million dollars ($1,000,000) for fiscal year 2010-2011."

15-11-708. Grant distribution.

(a)(1) A grant application under this subchapter that meets the criteria under § 15-11-705 shall be submitted to the Wildlife Observation Trails Pilot Program Advisory Board by the Director of the Department of Parks and Tourism for review and comment.

(2) The board shall recommend grants for approval by the director.

(3) The director shall designate the grant recipients that are eligible for moneys under this subchapter and notify the Arkansas State Game and Fish Commission of the grant recipients.

(b) The commission agrees to receive grant designations submitted by the director and approve distribution of moneys annually to eligible grant recipients in the Wildlife Observation Trails Pilot Program as follows:

(1) A maximum of eighty percent (80%) of the moneys for grants for wildlife observation trail development to cities or counties; and

(2) A maximum of twenty percent (20%) of the moneys for grants for wildlife observation trail development to state agencies or nonprofit organizations.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 6.

Amendments. The 2011 amendment deleted "advisory" preceding "board" in (a)(2).

15-11-709. Reporting.

(a) The Arkansas State Game and Fish Commission and the Department of Parks and Tourism shall report the status of the Wildlife Observation Trails Pilot Program biannually to the Game and Fish/State Police Subcommittee of the Legislative Council and the Parks and Tourism Subcommittee of the Joint Budget Committee.

(b) The report shall address and evaluate whether or not the program as provided in this subchapter has been successful in creating new wildlife observation trails and stimulating economic growth.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 6.

Amendments. The 2011 amendment made no change in the section.

Subchapter 8 — Arkansas Great Places Program

SECTION.
15-11-801. Legislative intent.
15-11-802. Arkansas Great Places Program — Creation.
15-11-803. Eligibility for Arkansas Great Places Program.
15-11-804. Selection for Arkansas Great Places Program.

15-11-801. Legislative intent.

(a) The General Assembly finds that:

(1) The state of Arkansas has a range of geographic and cultural diversity, stretching from the Ozark Mountains, to the Ouachita Mountains, to the Arkansas River Valley, to the Delta, and to the Timberlands;

(2) The economics of each of these geographic regions, encompassed in the four (4) congressional districts, provide different opportunities for their respective residents;

(3) A community, city, or nonprofit organization that has the organization in place, has the motivation, and has acquired a base of financial resources to move itself ahead in the search for visitors and potential

investors should be provided additional finances and resources to set its community or city apart as an "Arkansas Great Place"; and

(4) Visitors and potential investors in the State of Arkansas should be given the chance to acquaint themselves with the communities and cities that are the "Arkansas Great Places" of each congressional area.

(b) The purpose of this subchapter is to create a system and resources for geographic and culturally diverse communities and cities to be recognized as Arkansas Great Places.

History. Acts 2011, No. 896, § 1.

15-11-802. Arkansas Great Places Program — Creation.

(a) The Department of Arkansas Heritage shall administer and establish the Arkansas Great Places Program to:

(1) Provide planning and financial assistance to eligible organizations for community development; and

(2) Combine resources of state government in an effort to showcase the unique and authentic qualities of communities, regions, neighborhoods, and districts that make those locations exceptional places to work and live.

(b) The Arkansas Economic Development Commission and the Department of Parks and Tourism shall provide assistance to the Department of Arkansas Heritage in administering and establishing the program.

History. Acts 2011, No. 896, § 1.

15-11-803. Eligibility for Arkansas Great Places Program.

(a) As used in this subchapter, "eligible organization" means:

(1) A county;

(2) A municipality or incorporated town; or

(3) A nonprofit organization.

(b)(1) An eligible organization may apply to the Department of Arkansas Heritage for participation in the Arkansas Great Places Program.

(2) The department shall forward applications for participation in the program to the Arkansas Natural and Cultural Heritage Advisory Committee to select applicants for participation in the program.

(c) An application for participation in the program shall be for a project that will:

(1) Stimulate economic growth;

(2) Enhance local community development efforts;

(3) Foster creative economies;

(4) Enhance the quality of life in the community where the eligible organization is located;

(5) Promote awareness and enjoyment of the natural and cultural heritage of Arkansas; or

(6) Foster cooperative efforts among organizations, businesses, and government.

(d) The committee shall not approve an application for participation in the program if the application would:

(1) Fund academic research;

(2) Be awarded to a for-profit organization or event;

(3) Fund programs or projects that disregard the need to preserve, protect, or conserve historical sites, structures, artifacts, and the environment; or

(4) Be outside accepted professional museum or environmental standards.

(e)(1) An application for participation in the program shall indicate the amount of funds the eligible organization wishes to receive.

(2)(A) Except as provided in subdivision (e)(2)(B) of this section, as a condition of participating in the program, an eligible organization shall pledge matching funds from nongovernmental sources in the following amounts:

(i) An eligible organization located in a county with a population of less than twenty thousand (20,000) residents shall pledge at least ten percent (10%) of the total amount of funding requested from the Arkansas Great Places Program Fund, § 19-5-1245;

(ii) An eligible organization located in a county with a population of at least twenty thousand (20,000) but less than fifty thousand (50,000) residents shall pledge at least twenty percent (20%) of the total amount of funding requested from the fund; and

(iii) An eligible organization located in a county with a population of fifty thousand (50,000) or more residents shall pledge at least thirty percent (30%) of the total amount of funding requested from the fund.

(B) When selecting an applicant for participation in the program, the committee may specify an amount of matching funds to be pledged by an eligible organization in lieu of the amounts under subdivision (e)(2)(A) of this section.

(f) The department shall promulgate rules necessary to implement the program, including without limitation rules containing:

(1) The procedure to apply for participation in the program; and

(2) The criteria to be used by the committee when determining whether to award a grant.

(g)(1) The department may make investigations and audits of an eligible organization participating in the program to determine that all funds granted under this subchapter are handled and expended for the purposes as approved by the department in awarding the funds.

(2) During an investigation or audit, an eligible organization shall provide any information requested by the department to ensure that funds were handled and expended properly by the eligible organization.

(h)(1) The awarding of funds under this subchapter is contingent on the appropriation and availability of funding for the program.

(2) The department shall not solicit or accept applications for the program if funds for the program are not available.

History. Acts 2011, No. 896, § 1.

15-11-804. Selection for Arkansas Great Places Program.

(a)(1)(A) The Arkansas Natural and Cultural Heritage Advisory Committee shall select four (4) eligible organizations for participation in the Arkansas Great Places Program by July 1, 2012.

(B) An eligible organization selected for participation in the program under subdivision (a)(1)(A) of this section shall participate in the program for a two-year period.

(C) The committee shall select an eligible organization under subdivision (a)(1)(A) of this section from each of the four (4) congressional districts.

(D) Two (2) of the four (4) eligible organizations selected under subdivision (a)(1)(A) of this section shall be located in counties of twenty thousand (20,000) residents or less.

(2)(A) After July 1, 2012, the committee shall select by July 1 of each even-numbered year no more than four (4) eligible organizations for participation in the program.

(B) An eligible organization selected for participation in the program under subdivision (a)(2)(A) of this section shall participate in the program for a two-year period.

(b) A member of the committee shall recuse from the consideration of an application for participation in the program by an eligible organization located in the county in which the member of the committee resides.

(c) The Department of Arkansas Heritage shall work with the Arkansas Economic Development Commission to maximize grants awarded to participants in the program.

(d)(1) When considering an application for a grant or other state funds, a state agency shall give additional consideration or additional points in the application of rating or evaluation criteria to an eligible organization that is a participant in the program.

(2) Subdivision (d)(1) of this section applies to applications filed within three (3) years of the eligible organization's selection as a participant in the program.

History. Acts 2011, No. 896, § 1.

Subchapter 9 — Arkansas Arts and Cultural Districts Act

SECTION.
15-11-901. Title.
15-11-902. Definitions.
15-11-903. Applicability.
15-11-904. Creation of arts and cultural districts.
15-11-905. Rules.

15-11-901. Title.

This subchapter shall be known as the "Arkansas Arts and Cultural Districts Act".

History. Acts 2011, No. 1030, § 1.

15-11-902. Definitions.

As used in this subchapter:

(1) "Artistic work" means an original and creative work that:

(A) Is created, written, composed, or executed; and

(B) Falls into one (1) or more of the following categories:

(i) A book or other writing;

(ii) A play or performance of a play;

(iii) An instrumental or vocal musical composition or the performance of an instrumental or vocal musical composition;

(iv) A painting or other picture;

(v) A sculpture;

(vi) A traditional or fine craft;

(vii) The creation of a film or television production or the acting within a film or television production;

(viii) The creation of a dance or the performance of a dance;

(ix) The creation of original jewelry, clothing, costumes, or clothing or costume design; or

(x) Any other product generated as a result of a work listed in subdivisions (1)(B)(i)-(ix) of this section;

(2) "Arts and cultural district" means a developed district of public and private uses that:

(A) Is well recognized as an area in which there is a high concentration of arts and cultural resources that serves as an anchor attraction; and

(B) Ranges in size from a portion of a city or county to a regional district with a special coherence;

(3) "Arts and cultural enterprise" means a for-profit or not-for-profit entity dedicated to visual or performing arts; and

(4) "Qualifying residing artist" means an individual who:

(A) Owns or rents residential real property in the county in which the arts and cultural district is located;

(B) Conducts a business in the arts and cultural district; and

(C) Derives income from the sale or performance within the arts and cultural district of an artistic work that the individual wrote, composed, executed, or otherwise created, either alone or with others, in the arts and cultural district.

History. Acts 2011, No. 1030, § 1.

15-11-903. Applicability.

This subchapter does not apply to:

(1) The creation or execution of artistic work for industry-oriented or industry-related production; or

(2) Tailoring services, clothing alteration, or jewelry repair.

History. Acts 2011, No. 1030, § 1.

15-11-904. Creation of arts and cultural districts.

(a) The following may apply to the Arkansas Arts Council to designate an arts and cultural district:

(1) A city or county for an area within the city or county;

(2) With the prior consent of the city, a county, on its own behalf or on behalf of a city, for an area in the city; or

(3) Two (2) or more cities or counties jointly for an area at least partially located in each city or county.

(b) The application shall:

(1) Be in the form and manner and contain the information required by the council;

(2) Contain sufficient information to allow the council to determine if the proposed district qualifies under § 15-11-902(2); and

(3) Be submitted for a city or county by the chief elected officer or, if none, the governing body of the city or county.

History. Acts 2011, No. 1030, § 1.

15-11-905. Rules.

The Arkansas Arts Council shall promulgate rules to implement this subchapter.

History. Acts 2011, No. 1030, § 1.

CHAPTER 13

ARKANSAS ALTERNATIVE FUELS DEVELOPMENT ACT

SUBCHAPTER.

1. General Provisions.
3. Arkansas Alternative Fuels Development Program.

Subchapter 1 — General Provisions

SECTION.

15-13-102. Definitions.

Effective Dates. Acts 2011, No. 1165, § 4: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkan-

sas that diesel-powered and gasoline-powered school buses are contributing to air pollution in this state; that school buses powered by compressed natural gas are more environmentally clean and a great alternative to diesel-powered and gasoline-powered school buses; that the cost of diesel and gasoline is much greater than the cost of compressed natural gas; that school districts need the cost savings and the environmental enhancement of providing school buses powered by compressed natural gas; and that providing a rebate would encourage school districts to convert their school buses to dedicated or bi-fuel compressed natural gas school buses. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2013, No. 152, § 6: Feb. 26, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that diesel-powered and gasoline-powered motor vehicles are contributing to air pollution in this state; that motor vehicles powered by compressed natural gas or propane gas are environmentally cleaner and are a great alternative to diesel-powered and gasoline-powered motor vehicles; that the costs of diesel and gasoline are much greater than the costs of compressed natural gas and propane gas; that Arkansans need the cost savings and the environmental enhancement of driving a motor vehicle powered by compressed natural gas or propane gas; and that this act is necessary because providing incentives would encourage Arkansans to convert their motor vehicles to motor vehicles that are powered by compressed natural gas or propane gas, which would help both the environment and the economy in Arkansas. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013."

15-13-102. Definitions.

As used in this chapter:

(1) "Alternative fuels" means biofuel, ethanol, compressed natural gas, propane gas, or a synthetic transportation fuel;

(2) "Alternative fuels distributor" means a business located in the State of Arkansas that distributes alternative fuels or alternative fuels mixture;

(3) "Alternative fuels mixture" means a mixture of alternative fuels that is:

(A) An undyed, clear distillate special fuel that is suitable for use in motor vehicles on Arkansas highways;

(B) A dyed fuel for off-road use;

(C) Sold by the supplier producing alternative fuels mixture to any person for use as a fuel; or

(D) Used as a fuel by the supplier producing the alternative fuels mixture;

(4) "Alternative fuels producer" means a business located in Arkansas that uses biomass or other renewable resources excluding recycled petroleum oils to manufacture alternative fuels;

(5) "Bi-fuel compressed natural gas motor vehicle" means a motor vehicle that is powered by:

(A) Compressed natural gas; and

(B) Gasoline or diesel;

(6) "Bi-fuel propane gas motor vehicle" means a motor vehicle that is powered by:

(A) Propane gas; and

(B) Gasoline or diesel;

(7)(A) "Biofuel" means a renewable, biodegradable, combustible liquid or gaseous fuel derived from biomass or other renewable resources that can be used as transportation fuel, combustion fuel, or refinery feedstock and that meets the American Society for Testing and Materials International Specifications and Test Methods and federal quality requirements as in effect on February 1, 2007, for each category or grade of fuel.

(B) "Biofuel" includes without limitation:

(i) Biodiesel or renewable diesel;

(ii) Renewable gasoline;

(iii) Renewable jet fuel;

(iv) Renewable naphtha;

(v) Biocrude;

(vi) Biogas; and

(vii) Other renewable, biodegradable, mono alkyl ester combustible fuel derived from biomass;

(8)(A) "Biomass" means any matter derived from plants, animals, or waste materials that is used for the production of alternative fuels.

(B) "Biomass" includes residues or byproducts from:

(i) Agricultural production;

(ii) Agricultural processing;

(iii) Algae;

(iv) Forest or wood resources;

(v) Forestry or wood production;

(vi) Forestry or wood processing; or

(vii) Landfill refuse.

(C) "Biomass" includes plant material from crops that are produced for use in the production of alternative fuels and cellulosic biomass.

(D) "Biomass" does not include recycled petroleum oil;

(9) "Conversion kit" means a set of supplies, materials, parts, tools, or equipment used to convert a diesel-powered or gasoline-powered motor vehicle to a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas vehicle, or bi-fuel propane gas motor vehicle;

(10) "Dedicated compressed natural gas motor vehicle" means a motor vehicle that is powered only by compressed natural gas;

(11) "Dedicated propane gas motor vehicle" means a motor vehicle that is powered only by propane gas;

(12) "Differential costs" means the difference in costs between:

(A) A dedicated compressed natural gas motor vehicle or a dedicated propane gas motor vehicle;

(B) A comparably equipped motor vehicle powered by gasoline or diesel;

(13) "Ethanol" means ethyl alcohol derived from biomass that:

(A) Meets the American Society for Testing and Materials Specification D4806-04a for ethanol as in effect on January 1, 2007; and

(B) Is denatured as specified in 27 C.F.R. Part 20 and Part 21, as in effect on January 1, 2007;

(14) "Feedstock processor" means a business located in Arkansas that uses biomass or other renewable resources excluding recycled petroleum oils to manufacture feedstock to be used in the production of alternative fuels;

(15) "Incremental costs" means the difference in the costs between:

(A) Converting a motor vehicle to a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle, including the original cost of the vehicle; and

(B) A comparably equipped dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle;

(16) "Other renewable resources" means any material that can be recycled, regenerated, reclaimed, or reused;

(17) "State agency" means any office, board, commission, department, council, bureau, or other entity created by the General Assembly; and

(18) "Synthetic transportation fuel" means a liquid fuel produced from biomass by a gasification process or other refining process that meets any applicable state or federal environmental requirement.

History. Acts 2007, No. 699, § 1; 2007, No. 873, § 1; 2009, No. 977, § 1; 2011, No. 347, § 1; 2011, No. 734, § 1; 2011, No. 832, § 1; 2011, No. 1165, § 1; 2013, No. 152, §§ 1 — 3.

A.C.R.C. Notes. Pursuant to § 1-2-207(b), the amendment of this section by Acts 2011, No. 1165, supercedes the amendment by Acts 2011, No. 832. Acts 2011, No. 832, § 1, added new subdivisions that read as follows:

"(12) 'Bi-fuel compressed natural gas motor vehicle' means a motor vehicle that is powered by compressed natural gas and gasoline or diesel;

"(13) 'Conversion kit' means a set of supplies, materials, parts, tools, or equipment used to convert a diesel-powered or gasoline-powered motor vehicle to a dedicated or bi-fuel compressed natural gas motor vehicle;

"(14) 'Dedicated compressed natural gas motor vehicle' means a motor vehicle that is powered only by compressed natural gas; and

"(15) 'Differential costs' means the difference in costs between a dedicated natural gas vehicle and a comparably equipped motor vehicle powered by gasoline or diesel."

Amendments. The 2011 amendment by Act No. 347 inserted "propane gas" in (1).

The 2011 amendment by Act No. 734, in (5)(A) [(6)(A)], inserted "or gaseous" and "International"; added present (5)(B)(vi) [(6)(B)(vi)] and redesignated (5)(B)(vi) [(6)(B)(vi)] as (vii); inserted "or waste materials" in (6)(A) [(7)(A)]; and added (6)(B)(vii) [(7)(B)(vii)].

The 2011 amendment by Act No. 1165 added (12) [5], (13) [8], and (14) [9].

The 2013 amendment inserted new (6), (11), (12) and (15) and redesignated remaining subdivisions accordingly; rewrote present (5) and (9); and substituted "motor vehicle" for "school bus" in present (10).

Subchapter 3 — Arkansas Alternative Fuels Development Program

SECTION.
15-13-301. Arkansas Alternative Fuels Development Program.

SECTION.
15-13-306. Rebate incentives for modification of motor vehicles.

Effective Dates. Acts 2011, No. 1165, § 4: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that diesel-powered and gasoline-powered school buses are contributing to air pollution in this state; that school buses powered by compressed natural gas are more environmentally clean and a great alternative to diesel-powered and gasoline-powered school buses; that the cost of diesel and gasoline is much greater than the cost of compressed natural gas; that school districts need the cost savings and the environmental enhancement of providing school buses powered by compressed natural gas; and that providing a rebate would encourage school districts to convert their school buses to dedicated or bi-fuel compressed natural gas school buses. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2013, No. 152, § 6: Feb. 26, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that diesel-powered and gasoline powered motor vehicles are contributing to air pollution in this state; that motor vehicles powered by compressed natural gas or propane gas are environmentally cleaner and are a great alternative to diesel-powered and gasoline-powered motor vehicles; that the costs of diesel and gasoline are much greater than the costs of compressed natural gas and propane gas; that Arkansans need the cost savings and the environmental enhancement of driving a motor vehicle powered by compressed natural gas or propane gas; and that this act is necessary because providing incentives would encourage Arkansans to convert their motor vehicles to motor vehicles that are powered by compressed natural gas or propane gas, which would help both the environment and the economy in Arkansas. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013."

15-13-301. Arkansas Alternative Fuels Development Program.

(a) The Arkansas Alternative Fuels Development Program is established and shall be developed and administered by the Arkansas Agriculture Department.

(b) The program shall include four (4) types of incentives:

(1) Capital and operation production incentives for alternative fuels producers;

(2) Production incentives for feedstock processors;

(3) Distribution incentives for alternative fuels distributors; and

(4) Rebate incentives for the:

(A) Differential costs; and

(B) Costs of converting a diesel-powered or gasoline-powered motor vehicle into a:

(i) Dedicated compressed natural gas motor vehicle;

(ii) Bi-fuel compressed natural gas motor vehicle;

(iii) Dedicated propane gas motor vehicle; or

(iv) Bi-fuel propane gas motor vehicle.

(c) The incentives under this subchapter are available only for the following after July 1, 2013:

(1) Capital investments in alternative fuels production facilities, feedstock processing facilities, or distribution facilities;

(2) The production of alternative fuels;

(3) The processing of feedstock; or

(4) The conversion of a diesel-powered or gasoline-powered motor vehicle into a:

(A) Dedicated compressed natural gas motor vehicle;

(B) Bi-fuel compressed natural gas motor vehicle;

(C) Dedicated propane gas motor vehicle; or

(D) Bi-fuel propane gas motor vehicle.

History. Acts 2007, No. 873, § 1; 2011, No. 832, § 2; 2011, No. 1165, § 2; 2013, No. 152 § 4.

A.C.R.C. Notes. Pursuant to § 1-2-207(b), the amendment of this section by Acts 2011, No. 1165, supercedes the amendment by Acts 2011, No. 832. Acts 2011, No. 832, § 2, amended the section as follows:

"(a) The Arkansas Alternative Fuels Development Program is established and shall be developed and administered by the Arkansas Agriculture Department.

"(b) The program shall include four (4) types of incentives:

"(1) Capital and operation production incentives for alternative fuels producers;

"(2) Production incentives for feedstock processors;

"(3) Distribution incentives for alternative fuels distributors; and

"(4) Rebate incentives for the:

"(A) Differential costs of a dedicated motor vehicle; and

"(B) Costs of converting diesel and gasoline motor vehicles into dedicated or bi-fuel compressed natural gas motor vehicles.

"(c) The incentives under this subchapter are available only for the following after July 1, 2011:

"(1) Capital investments in alternative fuels production facilities, feedstock processing facilities, or distribution facilities;

"(2) The production of alternative fuels;

"(3) The processing of feedstock; or

"(4) The conversion of diesel-powered and gasoline-powered motor vehicles to dedicated or bi-fuel compressed natural gas motor vehicles."

Amendments. The 2011 amendment substituted "four (4)" for "three (3)" in the introductory language of (b); deleted "grant" preceding "incentives" in the introductory language of (b) and (c); inserted (b)(4); substituted "July 1, 2011" for "January 1, 2007" in the introductory language of (c); and added (c)(4).

The 2013 amendment rewrote (b)(4); substituted "July 1, 2013" for "July 1, 2011" in the introductory language of (c); and rewrote (c)(4).

15-13-306. Rebate incentives for modification of motor vehicles.

(a) The Arkansas Alternative Fuels Development Program shall include an incentive program that provides a rebate to a public entity, a company, an organization, or an affiliate of a public entity, a company, or an organization:

(1) To assist in the purchase of a conversion kit used to convert a diesel-powered motor vehicle or gasoline-powered motor vehicle to a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle; and

(2) For the differential costs and incremental costs associated with the conversion of a diesel-powered motor vehicle or gasoline-powered motor vehicle into a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle.

(b) Additional funding for the incentive program provided by this section shall be from gifts, grants, private donations, and other funds made available by the General Assembly.

(c) The Arkansas Agriculture Department shall create a rebate application process for a public entity, a company, an organization, or an affiliate of a public entity, a company, or an organization to obtain a rebate that shall include:

(1) An application for a rebate under this subchapter that shall include:

(A) An affidavit or proof that the motor vehicle is registered in Arkansas or will be registered in Arkansas upon acquisition of the motor vehicle; and

(B) Evidence of the following:

(i) The purchase of a dedicated compressed natural gas motor vehicle or a dedicated propane gas motor vehicle and the differential costs; or

(ii) The differential costs, incremental costs, or the costs associated with the conversion of a diesel-powered motor vehicle or gasoline-powered motor vehicle into a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle;

(2) Instructions about the rebate process;

(3) Scoring procedures to determine the award of the rebates; and

(4) Other factors that the Secretary of the Arkansas Agriculture Department deems necessary.

(d)(1) The department shall prepare an annual progress report on rebates made under this section.

(2) The report shall include:

(A) The amount of each rebate;

(B) The purpose of the rebate;

(C) The total amount expended by the rebate recipient in converting the diesel-powered motor vehicle or gasoline-powered motor vehicle to a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle; and

(D) The results produced or the progress made in the overall conversion of diesel-powered motor vehicles and gasoline-powered motor vehicles to dedicated compressed natural gas motor vehicles, bi-fuel compressed natural gas motor vehicles, dedicated propane gas motor vehicles, or bi-fuel propane gas motor vehicles.

(3) The report for each state fiscal year shall be filed by June 30 of the following fiscal year with the office of the Governor and the Legislative Council.

(e) An independent third-party evaluator selected by the department shall:

(1) Study the use of a diesel-powered motor vehicle or gas-powered motor vehicle as compared to a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle in the following areas:

(A) Environmental impact;

(B) Operational costs; and

(C) Maintenance costs;

(2) Prepare an annual report of the results from the study; and

(3) File the annual report by June 30 of the following fiscal year with the office of the Governor and the Legislative Council.

(f) The rebate to be awarded by the department is the lesser of:

(1) Seventy-five percent (75%) of the cost for the differential costs, conversion kit, and incremental costs of converting a diesel-powered motor vehicle or gasoline-powered motor vehicle to a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle; or

(2) As determined by weight:

(A) Five thousand dollars ($5,000) for a motor vehicle with a gross vehicle weight rating that does not exceed eight thousand five hundred pounds (8,500 lbs.);

(B) Eight thousand dollars ($8,000) for a motor vehicle with a gross vehicle weight rating that is more than eight thousand five hundred pounds (8,500 lbs.) but does not exceed fourteen thousand pounds (14,000 lbs.);

(C) Twenty thousand dollars ($20,000) for a motor vehicle with a gross weight rating that is more than fourteen thousand pounds (14,000 lbs.) but does not exceed twenty-six thousand pounds (26,000 lbs.); or

(D) Thirty-two thousand dollars ($32,000) for a motor vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds (26,000 lbs.).

(g) A public entity, a company, an organization, or an affiliate of a public entity, a company, or an organization shall not receive more than fifty thousand dollars ($50,000) per fiscal year for conversion kit costs, differential costs, and incremental costs.

History. Acts 2011, No. 1165, § 3; 2013, No. 152, § 5.

A.C.R.C. Notes. Pursuant to § 1-2-207(b), the enactment of this section by Acts 2011, No. 1165, supercedes the enactment by Acts 2011, No. 832. Acts 2011, No. 832, § 3, enacted the section as follows:

15-13-306. Rebate incentives for modification by a certified technician of motor vehicles..

"(a) The Arkansas Alternative Fuels Development Program shall include an incentive program that provides a rebate to a single public entity, company, organization, or its affiliate, to assist in the purchase of a conversion kit used to convert a diesel motor vehicle or gasoline motor vehicle to a dedicated or bi-fuel compressed natural gas motor vehicle and for the differential and incremental costs

associated with the conversion of a diesel motor vehicle or gasoline motor vehicle to a dedicated or bi-fuel sed natural gas motor vehicle.

"(b) The Arkansas Agriculture Department shall create a rebate application process for a single public entity, company, organization, or its affiliate, to obtain a rebate that shall include:

"(1) An application for a rebate under this subchapter that shall include at a minimum:

"(A) An affidavit or proof that the motor vehicle is registered in Arkansas or will be registered in Arkansas upon acquisition of the motor vehicle; and

"(B) Evidence of:

"(i) The purchase of a dedicated motor vehicle and the differential costs; or

"(ii) The differential costs or incremental costs associated with the conversion of a diesel motor vehicle or gasoline motor vehicle into a dedicated or bi-fuel compressed natural gas motor vehicle;

"(2) Instructions about the rebate process;

"(3) Scoring procedures to determine the award of the rebates; and

"(4) Other factors that the Secretary of the Arkansas Agriculture Department deem necessary.

"(c)(1) The department shall prepare an annual progress report on rebates made under this section.

"(2) The report shall include:

"(A) The amount of each rebate;

"(B) The purpose of the rebate;

"(C) The total amount expended by the rebate recipient in converting the motor vehicle to a dedicated or bi-fuel compressed natural gas motor vehicle; and

"(d) The rebate to be awarded by the department is the lesser of:

"(1) Fifty percent (50%) of the cost for the differential costs, conversion kit, and incremental costs of converting to a dedicated or bi-fuel compressed natural gas motor vehicle; or:

"(2) As determined by weight:

"(A) Five thousand dollars ($5,000) for a motor vehicle with a gross vehicle weight rating of not more than eight thousand five hundred pounds (8,500 lbs.);

"(B) Eight thousand dollars ($8,000) for a motor vehicle with a gross vehicle weight rating of more than eight thousand five hundred pounds (8,500 lbs.) but not more than fourteen thousand pounds (14,000 lbs.); or

"(C) Thirty-two thousand dollars ($32,000) for a motor vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds (26,000 lbs.)

"(e) No single person, public entity, company, organization, or its affiliates may receive more than seventy-five thousand dollars ($75,000) per fiscal year for motor vehicle conversion kit costs, differential costs, and incremental costs.

"(f) An alternative fuel distributor receiving a grant under § 15-13-304 may also receive a rebate under this section."

Amendments. The 2013 amendment substituted "motor vehicles" for "school buses" in the section heading, and rewrote the section.

CHAPTER 14

ARKANSAS RETIREMENT COMMUNITY PROGRAM ACT

SECTION.

15-14-102. Definitions.
15-14-103. Arkansas Retirement Community Program — Creation.
15-14-104. Eligibility.
15-14-105. Services provided.
15-14-106. Recertification.
15-14-107. Arkansas Retirement Community Program Fund Account.
15-14-108. Rules and regulations.

15-14-102. Definitions.

As used in this chapter:

(1) "Association" means the Arkansas Association of Development Organizations; and

(2) "Program" means the Arkansas Retirement Community Program.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 1.

A.C.R.C. Notes. The intent of Acts 2011, No. 1048 appeared to be to replace "Commission" with "Association." However, the new language was added in the Act without the old language being deleted.

Amendments. The 2011 amendment rewrote (1).

15-14-103. Arkansas Retirement Community Program — Creation.

(a) The Arkansas Association of Development Organizations shall establish and maintain an Arkansas Retirement Community Program under which retirees and potential retirees are encouraged to make their homes in Arkansas communities that have met the criteria for certification by the association as an Arkansas retirement community.

(b) The mission of the program is to:

(1) Promote Arkansas as a retirement destination to retirees and potential retirees both inside and outside Arkansas;

(2) Assist Arkansas communities in their efforts to market themselves as desirable retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle;

(3) Assist in the development of retirement communities for economic development purposes and as a means of providing a potential workforce and enriching Arkansas communities; and

(4) Encourage tourism to Arkansas.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 2.

Amendments. The 2011 amendment, in (a), substituted "Arkansas Association of Development Organizations" for "Arkansas Economic Development Commission" and "association" for "commission."

15-14-104. Eligibility.

(a) To be eligible to be an Arkansas retirement community, an applicant community, acting through a board or panel that serves as the applicant community's official program sponsor, shall:

(1) Complete a retiree desirability assessment, as developed by the Arkansas Association of Development Organizations, to include facts regarding crime statistics, tax information, recreational opportunities, housing availability, and other appropriate factors, including criteria listed in subsection (b) of this section;

(2) Work to gain the support of churches, clubs, businesses, media, and other entities as necessary for the success of the Arkansas Retirement Community Program in the applicant community;

(3) Identify emergency medical services and hospitals within a seventy-five-mile radius of the community; and

(4) Submit to the association:

(A) An application fee in an amount equal to the greater of:

(i) Two thousand five hundred dollars ($2,500); or

(ii) Twenty-five cents (25¢) multiplied by the population of the applicant community, as determined by the most recent federal decennial census;

(B) An annual renewal fee equal to the greater of:

(i) Two thousand five hundred dollars ($2,500); or

(ii) Twenty-five cents (25¢) multiplied by the population of the applicant community, as determined by the most recent federal decennial census.

(C) A marketing plan detailing the mission as applied to the applicant community, the target market, the competition, an analysis of the applicant community's strengths, weaknesses, opportunities, and dangers and the strategies the applicant community will employ to attain the goals of the program; and

(D) A long-term plan outlining the steps the applicant community will undertake to maintain its desirability as a destination for retirees, including an outline of plans to correct any facility and service deficiencies identified in the retiree desirability assessment required by subdivision (a)(1) of this section.

(b) The association shall develop and use a scoring system to determine whether an applicant community will qualify as an Arkansas retirement community. In addition to the requirements of subsection (a) of this section, the association shall consider as part of the scoring system the applicant community in relation to the following criteria:

(1) Arkansas's state and local tax structure;

(2) Housing opportunities and cost;

(3) Climate;

(4) Personal safety;

(5) Working opportunities;

(6) Health care services and other services along the continuum of care, including home-based services and community-based services, housing for the elderly, assisted living, personal care, and nursing care facilities;

(7) Transportation;

(8) Continuing education;

(9) Leisure living;

(10) Recreation;

(11) Performing arts;

(12) Festivals and events;

(13) Sports at all levels; and

(14) Other services and facilities in the applicant community that are necessary to enable persons to age in the least restrictive environment, as may be identified by the Department of Human Services.

(c) The association shall initiate the Arkansas Retirement Community Program as a pilot program limited to up to ten (10) communities that apply for certification under this program.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 3.

Amendments. The 2011 amendment substituted "Arkansas Association of Development Organizations" for "Arkansas Economic Development Commission" in (a)(1); substituted "association" for "commission" in (a)(4) and twice in the introductory language of (b); substituted "Two thousand five hundred dollars ($2,500)" for "Five thousand dollars ($5,000)" in (a)(4)(A)(i); added (a)(4)(B); redesignated former (a)(4)(B) and (C) as present (a)(4)(C) and (D); and added (c).

15-14-105. Services provided.

(a) If the Arkansas Association of Development Organizations finds that an applicant community successfully meets the requirements of an Arkansas retirement community, not later than ninety (90) days after the application is submitted, the association shall certify the community and provide the following services to the community, to the extent to which funds are available:

(1) Assistance in the training of local staff and volunteers;

(2) Ongoing oversight and guidance in marketing, including updates on retirement trends;

(3) Inclusion in the state's national advertising and public relations campaigns and travel show promotions, including a prominent feature on the association's Internet website, to be coordinated with the Internet websites of other agencies, as appropriate;

(4) Eligibility for state financial assistance for brochures, support material, and advertising; and

(5) An evaluation and progress assessment on maintaining and improving the community's desirability as a home for retirees.

(b) The association may contract with a local or regional nonprofit organization to provide a service described by subsection (a) of this section.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 4.

Amendments. The 2011 amendment, in the introductory language of (a), substituted "Arkansas Association of Development Organizations" for "Arkansas Economic Development Commission," substituted "association" for "commission," and added "to the extent to which funds are available"; substituted "association's" for "commission's" in (a)(3); and substituted "association" for "commission" in (b).

15-14-106. Recertification.

An Arkansas retirement community's certification under § 15-14-105 expires on the fifth anniversary of the date the initial certification is issued. To be considered for recertification by the Arkansas Association of Development Organizations, an Arkansas retirement community must:

(1) Complete and submit a new application in accordance with the requirements of § 15-14-104(a); and

(2) Submit data demonstrating the success or failure of the Arkansas retirement community's efforts to market and promote itself as a desirable location for retirees and potential retirees.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 5.

Amendments. The 2011 amendment substituted "Arkansas Association of Development Organizations" for "Arkansas Economic Development Commission" in the introductory language.

15-14-107. Arkansas Retirement Community Program Fund Account.

The Arkansas Retirement Community Program Fund Account is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State and shall be funded by the fees collected under § 15-14-104. All moneys collected under the fund account shall be deposited into the State Treasury to the credit of the fund account as special revenues. Moneys in the account may be appropriated to the Arkansas Institute for Economic Advancement of the University of Arkansas at Little Rock only for the purposes of this chapter, including the payment of administrative and personnel costs of the Arkansas Association of Development Organizations connected with administering the Arkansas Retirement Community Program.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 6.

Amendments. The 2011 amendment substituted "Arkansas Institute for Economic Advancement at the University of Arkansas at Little Rock" for "Arkansas Economic Development Commission" and "Arkansas Association of Development Organization connected with" for "commission associated with."

15-14-108. Rules and regulations.

The Arkansas Association of Development Organizations, after having received input from the Department of Parks and Tourism, the Department of Arkansas Heritage, and the Arkansas Economic Development Commission, shall promulgate rules and regulations to implement this chapter.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 7.

Amendments. The 2011 amendment rewrote the section.

SUBTITLE 2. LAND AND WATER RESOURCES GENERALLY

CHAPTER 20

GENERAL PROVISIONS

SUBCHAPTER.

14. Premium Biosolid Marketing Incentive Act.

Subchapter 2 — Arkansas Natural Resources Commission

A.C.R.C. Notes. Acts 2013, No. 218, §§ 22-23 provided: "SECTION 22. CARRY FORWARD. At the end of each fiscal year, the Chief Fiscal Officer of the State shall authorize the carry forward of funds to support the amount of obligated grants that are certified by the Natural Resources Commission for Matching Grants in the appropriation entitled "Water Quality Plan Implementation

"Any carry forward of unexpended balance of funding as authorized herein, may be carried forward under the following conditions:

"(1) Prior to June 30, 2014 the Agency shall by written statement set forth its reason(s) for the need to carry forward said funding to the Department of Finance and Administration Office of Budget;

"(2) The Department of Finance and Administration Office of Budget shall report to the Arkansas Legislative Council all amounts carried forward by the September Arkansas Legislative Council or Joint Budget Committee meeting which report shall include the name of the Agency, Board, Commission or Institution and the amount of the funding carried forward from the first fiscal year to the second fiscal year, the program name or line item, the funding source of that appropriation and a copy of the written request set forth in (1) above;

"(3) Each Agency, Board, Commission or Institution shall provide a written report to the Arkansas Legislative Council or Joint Budget Committee containing all information set forth in item (2) above, along with a written statement as to the current status of the project, contract, purpose etc. for which the carry forward was originally requested no later than thirty (30) days prior to the time the Agency, Board, Commission or Institution presents its budget request to the Arkansas Legislative Council/Joint Budget Committee; and

"(4) Thereupon, the Department of Finance and Administration shall include all information obtained in item (3) above in the budget manuals and/or a statement of non-compliance by the Agency, Board, Commission or Institution."

"SECTION 23. CARRY FORWARD. At the end of each fiscal year, the Chief Fiscal Officer of the State shall authorize the carry forward of funds to support the amount of obligated grants that are certified by the Natural Resources Commission for Matching Grants in the appropriation entitled 'Water Quality Plan Implementation'.

"Any carry forward of unexpended balance of funding as authorized herein, may be carried forward under the following conditions:

"(1) Prior to June 30, 2014 the Agency shall by written statement set forth its reason(s) for the need to carry forward said funding to the Department of Finance and Administration Office of Budget;

"(2) The Department of Finance and Administration Office of Budget shall report to the Arkansas Legislative Council all amounts carried forward by the September Arkansas Legislative Council or Joint Budget Committee meeting which report shall include the name of the Agency, Board, Commission or Institution and the amount of the funding carried forward from the first fiscal year to the second fiscal year, the program name or line item, the funding source of that appropriation and a copy of the written request set forth in (1) above;

"(3) Each Agency, Board, Commission or Institution shall provide a written report to the Arkansas Legislative Council or Joint Budget Committee containing all information set forth in item (2) above, along with a written statement as to the current status of the project, contract, purpose etc. for which the carry forward was originally requested no later than thirty (30) days prior to the time the Agency, Board, Commission or Institution presents its budget request to the Arkansas Legislative Council/Joint Budget Committee; and

"(4) Thereupon, the Department of Finance and Administration shall include all information obtained in item (3) above in the budget manuals and/or a statement of non-compliance by the Agency, Board, Commission or Institution."

Subchapter 14 — Premium Biosolid Marketing Incentive Act

SECTION.
15-20-1401. Title.
15-20-1402. Definitions.
15-20-1403. Land Application Setbacks.
15-20-1404. Cost-share incentive.
15-20-1405. Application procedure — Administration.
15-20-1406. Source of program funding.

15-20-1401. Title.

This subchapter shall be known and may be cited as the "Premium Biosolid Marketing Incentive Act".

History. Acts 2011, No. 333, § 1.

15-20-1402. Definitions.

As used in this subchapter:

(1)(A) "Biosolid" means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works and includes without restriction:

(i) Domestic septage;

(ii) Scum or solids removed in a primary, secondary, or advanced wastewater treatment process; and

(iii) Material derived from a biosolid.

(B) "Biosolid" does not include the following:

(i) Ash generated during the firing of a biosolid in a biosolid incinerator; or

(ii) Grit and screenings generated during preliminary treatment of domestic sewage in a treatment works;

(2)(A) "Domestic septage" means liquid or solid material removed from a septic tank, cesspool, portable toilet, marine sanitation device designed to prevent overboard discharge of sewage, or similar treatment works that receives only domestic sewage.

(B) "Domestic septage" does not include the following:

(i) Liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives commercial wastewater or industrial wastewater; and

(ii) Grease removed from a grease trap at a restaurant;

(3) "Domestic sewage" means waste and wastewater from a human or a residence that is discharged to or otherwise enters a treatment works;

(4) "Eligible premium biosolid" means a premium biosolid that is sold:

(A) In bulk and not in bags or other containers or vehicles having a capacity of one (1) metric ton or less;

(B) By a farm supply dealer or other retailer located in the state; and

(C) For application to land in a location and manner not likely to cause water pollution within the meaning of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.;

(5) "Incentive certification" means a written certification that contains the following information with respect to the sale and purchase of an eligible premium biosolid:

(A) The name and business address of the:

(i) Seller; and

(ii) Purchaser;

(B) The date of the sale;

(C) The amount of the eligible premium biosolid, stated in tons and rounded up to the nearest one tenth (1/10) of a ton;

(D) The type of land on which the eligible premium biosolid is to be applied;

(E) The approximate number of acres of the land on which the eligible premium biosolid is to be applied;

(F) The county of the location of the land on which the eligible premium biosolid is to be applied;

(G) A statement that the purchaser has taken delivery of the eligible premium biosolid and has received from the seller a credit against the purchase price equal to the amount of the cost-share incentive due the seller from the Arkansas Water Development Fund under this subchapter; and

(H) The signature of the:

(i) Seller; and

(ii) Purchaser;

(6) "Land" means land located within the state and includes without restriction:

(A) Agricultural land;

(B) Pasture land;

(C) Forest land;

(D) A reclamation site;

(E) A public park; and

(F) A golf course;

(7) "Premium biosolid" means a biosolid fertilizer that meets the pollutant concentration limits of Table 3 of 40 C.F.R. pt. 503.13 as it existed on November 1, 2010, Class A pathogen reduction limits, and one (1) of the vector attraction reduction requirements of 40 C.F.R. pt. 503.33(b)(1) – (8), as it existed on November 1, 2010; and

(8) "Treatment works" means a federally owned, publicly owned, or privately owned device or system used to treat, recycle, or reclaim domestic sewage or a combination of domestic sewage and liquid industrial waste.

History. Acts 2011, No. 333, § 1.

15-20-1403. Land Application Setbacks.

(a) Application of eligible premium biosolids shall not be made within:

(1) One hundred feet (100') of streams including:

(A) Intermittent streams;

(B) Ponds;
(C) Lakes;
(D) Springs;
(E) Sinkholes;
(F) Rock outcrops;
(G) Wells; and
(H) Water supplies; or

(2) Three hundred feet (300') of extraordinary resource waters, ecologically sensitive waterbodies, and natural and scenic waterways, as defined by the Arkansas Pollution Control and Ecology Commission.

(b) Buffer distances for streams, ponds and lakes shall be measured from the ordinary high-water mark.

History. Acts 2011, No. 333, § 1.

15-20-1404. Cost-share incentive.

(a)(1) The Arkansas Natural Resources Commission may provide a cost-share incentive for the sale and purchase within the State of Arkansas of an eligible premium biosolid.

(2) The cost-share incentive from the Arkansas Water Development Fund shall not exceed fifteen dollars ($15.00) per ton of an eligible premium biosolid.

(b) An eligible premium biosolid for which an incentive certification has been submitted under this subchapter shall be applied only:

(1) To land located within the state; and

(2) In accordance with the requirements stated in 40 C.F.R. pt. 503, as it existed on November 1, 2010.

(c) Cost-share incentive funds for an eligible premium biosolid shall be available to a natural person or a business entity that:

(1) Sells an eligible premium biosolid to a purchaser for application to land that meets the requirements of subsection (b) of this section;

(2) Gives the purchaser a credit against the purchase price equal to the amount of the cost-share incentive that will be paid to the seller from the fund as provided in this section; and

(3) Submits to the commission an incentive certification in the form and manner required by the commission within ninety (90) days after the purchaser has accepted delivery of the eligible premium biosolid.

History. Acts 2011, No. 333, § 1.

15-20-1405. Application procedure — Administration.

(a) The Arkansas Natural Resources Commission shall promulgate rules necessary to administer the cost-share program under this subchapter.

(b)(1) The commission may charge a reasonable application fee to process an application for the payment of cost-share incentive funds under this subchapter.

(2) All fees received under subdivision (b)(1) of this section shall be deposited into the Arkansas Water Development Fund.

History. Acts 2011, No. 333, § 1.

15-20-1406. Source of program funding.

The Arkansas Natural Resources Commission may use the Arkansas Water Development Fund to finance the cost-share incentives under this subchapter.

History. Acts 2011, No. 333, § 1.

CHAPTER 21

LAND

SUBCHAPTER.
5. Arkansas State Land Information Board.

Subchapter 5 — Arkansas State Land Information Board

SECTION.
15-21-504. Duties, responsibilities, and authority.

Effective Dates. Acts 2011, No. 559, § 2: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that providing funding support to counties for parcel automation enhances Arkansas's future economic development, ability to respond to disaster events, and improves efficiency and equity in property tax assessment, revaluation, and revenue collection. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

15-21-504. Duties, responsibilities, and authority.

(a) The Arkansas Geographic Information Systems Board shall be empowered to:

(1) Provide a strategy for the continuing development of the Arkansas Spatial Data Infrastructure;

(2) Develop standard metadata reports through the Arkansas Geographic Information Office; and

(3) Direct available funds to mapping and land records modernization projects at various levels of government.

(b) The board shall:

(1) Undertake a continuing study of the land information needs of federal, state, county, and local agencies and private entities in the state;

(2) Review current and projected technology, standards, and collection methods and all statutes pertaining thereto;

(3) Develop strategies and guidelines for spatial data systems and land records modernization; and

(4) Pursue activities that result in coordinated cost-effective programs for spatial data development and distribution.

(c) The board shall coordinate completion and maintenance of shareable statewide framework data, applications of geographic information system technologies, spatial project methodologies, and methods of funding.

(d)(1) The board will develop and implement a program to further the process of land records modernization.

(2)(A) The board, using the technical support provided by the office, shall coordinate the development and maintenance of a statewide digital cadastre system.

(B) The digital cadastre manages and provides access to cadastral information. Digital cadastre does not represent legal property boundary descriptions, nor is it suitable for boundary determination of the individual parcels included in the cadastre.

(C) The board, using the technical support provided by the office, shall coordinate the development and maintenance of a statewide road centerline database.

(D) The board, using the technical support provided by the office, shall coordinate the development and maintenance of a statewide digital orthophotography database with a priority to be taken in leaf-off conditions.

(e) The duties of the board shall include, but not be restricted to:

(1) Identifying issues, problems, and solutions in implementing an overall Arkansas land and geographic resources program;

(2) Identifying and clarifying the roles of participants;

(3) Developing an overall coordinating schedule for framework data projects;

(4) Recommending methods of financing;

(5) Developing recommended priorities for the distribution of funds;

(6) Developing procedures for the inventory, storage, and distribution of spatial information;

(7) Implementing an ongoing information and education program to promote understanding and productive use of spatial and land information systems by public and private entities and individuals; and

(8) Encouraging and coordinating collaborative spatial project efforts and rewarding participants of collaborative efforts that result in economies of scale or demonstrable cost savings.

(f)(1) The board, through the office, shall define technical specifications and standards to use in the collection, distribution, and reporting of spatial information as required by the State of Arkansas Enterprise Architecture.

(2)(A) The board shall require metadata to be prepared and attached to all publicly funded mapping and geographic information systems databases.

(B) The metadata shall follow the Federal Geographic Data Committee content for the geospatial metadata standard.

(g) The board will serve as a point of contact for existing or proposed federal programs that impact the creation of spatial data or the Arkansas Spatial Data Infrastructure, or both.

(h) The board, through the office, shall review the strategic plans for digital mapping and land records modernization and make recommendations for the distribution of public funds for land records modernization, enhancement, and implementation.

(i) The office will serve as a statewide source of mapping and geographic information technology and will coordinate with federal agencies on state components of the National Spatial Data Infrastructure.

(j)(1) The office may utilize existing repositories as appropriate in order to maintain the Arkansas Spatial Data Infrastructure.

(2)(A) Agreements will be interagency service agreements and are exempt from the provisions of the Arkansas Procurement Law, § 19-11-201 et seq., and regulations.

(B) Further, these agreements will not be considered professional services or consulting service contracts.

(k) The office shall submit an annual maintenance plan and budget for geographic information systems and geodata services relating to the Arkansas Spatial Data Infrastructure to the board.

(l) As directed by the board, the office will coordinate framework data development and maintenance, provide technical processing of data sets, evaluate adherence to state-approved mapping standards, and work with spatial data stakeholders on statewide projects.

(m)(1)(A) The board may administer a statewide parcel mapping grant program at the direction of the office.

(B) The office shall develop and implement a program to provide funding support to counties to assist in the completion of statewide parcel mapping.

(2)(A) The program shall be supported by funds and appropriations provided by the General Assembly and the counties.

(B) Counties in the state are eligible to apply for a grant under the program to:

(i) Initiate parcel map automation;

(ii) Accelerate the completion of parcel map automation; or

(iii) Support parcel map improvements.

(C) Grants under the program shall be funded as follows:

(i) State funding equaling up to sixty percent (60%) of the cost of the approved projects; and

(ii) The balance of the cost from required matching funds from the county.

(D) At least forty percent (40%) of the cost of any parcel mapping project shall come from the counties participating in a project awarded under the program.

(E)(i) The matching funds may be provided by counties, affected school districts, and affected cities.

(ii) The matching funds shall be deposited by the office into the Geographic Information Systems Fund.

(3) The office may promulgate rules necessary to administer the program.

History. Acts 1995, No. 1259, § 4; 1997, No. 914, § 29; 2001, No. 1250, § 4; 2009, No. 244, § 1; 2011, No. 559, § 1.

Amendments. The 2011 amendment added (m).

CHAPTER 22

WATER RESOURCES

SUBCHAPTER.

2. Allocation and Use Generally.
5. Water Development Projects Generally.

Subchapter 2 — Allocation and Use Generally

SECTION.

15-22-201. Declaration of policy.
15-22-217. Allocation during shortages.
15-22-224. Appointment of receiver.

15-22-201. Declaration of policy.

(a) It is in the best interest of the people of the State of Arkansas to have a water policy that recognizes the vital importance of water to the prosperity and health of both people and their natural surroundings.

(b) Preserving water of a sufficient quality and quantity will allow Arkansas to be known both as a natural state and a land of opportunity where agriculture, industry, tourism, and recreation will remain strong for future generations.

(c) It is declared to be the policy of the State of Arkansas to encourage best management practices and reliable data to provide scientific methods for managing and conserving water for future use in recognition of the facts that:

(1) Arkansas has annual rainfall providing surplus surface water for the use of persons in this state, while continuing to provide water for wildlife habitat, recreation, industry, agriculture, and commerce;

(2) In many instances much of this surplus water is now underutilized;

(3) The groundwater supplies of the state are being used at a rate that will result in valuable water aquifers being destroyed, harming both the general public and the private property rights of those owning property in this state; and

(4) Surface water and ground water supplies must be managed together for maximum effect.

(d) It is declared to be the purpose of this subchapter to permit and regulate the construction of facilities to use surplus surface water in order to, without limitation:

(1) Protect critical groundwater supplies that are a significant source of the drinking water supply for thousands of people in Arkansas;
(2) Protect the rights of all persons equitably and reasonably interested in the use and disposition of water;
(3) Maintain healthy in-stream flows for all streams and rivers;
(4) Prevent harmful overflows and flooding; and
(5) Conserve the natural resources of the State of Arkansas.

History. Acts 1957, No. 81, § 1; A.S.A. 1947, § 21-1301; Acts 2011, No. 749, § 1.

Amendments. The 2011 amendment rewrote the section.

15-22-217. Allocation during shortages.

(a)(1) If a shortage of water in a stream or part of a stream exists to the extent that there is not sufficient water in the stream to meet the requirements of all water needs, on its own initiative or on the petition of a person affected by the shortage of water and after notice and hearing, the Arkansas Natural Resources Commission may allocate the available water from the stream among the uses of water affected by the shortage of water in a manner that each of the needs affected by the shortage of water may obtain an equitable portion of the available water.

(2)(A) Subject to the preferences and reserved uses stated in this section, if the commission allocates water under subdivision (a)(1) of this section, the commission shall give preference for water uses and types of water diversions as stated in this subdivision (a)(2).

(B) The commission shall allocate water for water uses in the following order of priority:

(i) Agriculture;
(ii) Industry;
(iii) Minimum streamflow;
(iv) Hydropower; and
(v) Recreation.

(b) In allocating water under this section, the commission may consider the use that each person involved is to make of the water allocated to that person.

(c) In making allocations of water under this section, reasonable preferences shall be given to different uses in the following order of preference:

(1) Sustaining life;
(2) Maintaining health; and
(3) Increasing wealth.

(d) Water needs shall include domestic and municipal water supply needs, agricultural and industrial water needs, and navigational, recreational, fish and wildlife, and other ecological needs.

(e) The following priorities shall be reserved before allocation under this section:

(1) Domestic and municipal domestic; and
(2) Federal water rights.

History. Acts 1957, No. 81, § 8; A.S.A. 1947, § 21-1308; Acts 1989, No. 469, § 2; 1991, No. 786, § 17; 2013, No. 593, § 1.

Amendments. The 2013 amendment rewrote (a); substituted "under this section" for "in such a case" in (b); substituted "allocations of water under this section" for "such allocations of water" in the introductory language of (c); and rewrote (e).

15-22-224. Appointment of receiver.

(a) As used in this section:

(1) "Adequate financial operation" means operation of a public water system or public sewer system in such a manner that the system has and will have the ability to provide sufficient funds for viable current and future operations, including without limitation:

(A) Operating costs;

(B) Debt repayment;

(C) Replacement costs; and

(D) Depreciation costs;

(2) "Adequate managerial operation" means operation of a public water system or public sewer system by persons having sufficient leadership, knowledge, skills, and abilities to manage the system for current and long-term viable operations of the system, including without limitation:

(A) A functioning governing body; and

(B) Adequate employee staffing;

(3) "Adequate technical operation" means operation of a public water system or public sewer system with sufficient facilities, equipment, and personnel for current and long-term viable operations of the system, including without limitation:

(A) Employment of licensed operators;

(B) Timely repair or replacement of equipment; and

(C) Planning for long-term system continuation;

(4) "Public sewer system" means a sewer collection or treatment system subject to regulation under the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., as existing on January 1, 2011, or the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., which is owned by a municipal corporation, a governmental corporation, or a nonprofit corporation, including without limitation:

(A) A municipality;

(B) A public facilities board;

(C) A public water authority;

(D) A water association;

(E) A regional water distribution district;

(F) A rural development authority;

(G) A sanitation authority;

(H) An improvement district; or

(I) A regional wastewater treatment district; and

(5) "Public water system" means a water system subject to regulation under the Safe Drinking Water Act, 42 U.S.C. 300f, as existing on January 1, 2011, which is owned by a municipal corporation, a govern-

mental corporation, or a nonprofit corporation, including without limitation:

(A) A municipality;

(B) A public facilities board;

(C) A public water authority;

(D) A water association;

(E) A regional water distribution district;

(F) A rural development authority;

(G) A sanitation authority;

(H) An improvement district;

(I) A regional wastewater treatment district; or

(J) A consolidated waterworks.

(b)(1) Except as provided in subsection (g) of this section, a court having jurisdiction in any proper action, upon application of the Arkansas Natural Resources Commission or its successor or successors, may appoint a receiver to take charge of the public water system or public sewer system if a public water system or public sewer system for a period of not less than six (6) months:

(A) Has failed to provide for the adequate financial operation of the system, provide for the adequate managerial operation of the system, or provide for the adequate technical operation of the system; or

(B) Has failed to comply with:

(i) Rules of the Department of Health or its successor or successors concerning drinking water standards and public water systems; or

(ii) The Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or rules promulgated in support of that act by the Arkansas Pollution Control and Ecology Commission or any successor or successors and enforced by the Arkansas Department of Environmental Quality or any successor or successors.

(2) The receiver may:

(A) Administer the public water system or public sewer system;

(B) Make improvements to the public water system or public sewer system;

(C) Operate and maintain the public water system or public sewer system;

(D) Charge and collect rates and fees for the public water system or public sewer system sufficient to provide for the payment of:

(i) Any costs of receivership;

(ii) Debt service on any indebtedness secured by revenues of the public water system or public sewer system; and

(iii) Operation and maintenance expenses and costs of improvements to the public water system or public sewer system; and

(E) Apply the income and revenues of the public water system or public sewer system in conformity with Arkansas law.

(c) Notwithstanding any Arkansas law to the contrary, the Arkansas Natural Resources Commission may be appointed as receiver under this section.

(d)(1)(A) Before entering upon his or her duties, the receiver shall be sworn to perform them faithfully.

(B) With one (1) or more sureties approved by the court, the receiver shall execute a bond to the person and in such sum as the court shall direct, to the effect that he or she will:

(i) Faithfully discharge the duties of receiver in the action; and

(ii) Obey the orders of the court.

(2) Subdivision (d)(1) of this section does not apply if the Arkansas Natural Resources Commission is appointed as receiver under this section.

(e) The receiver may, under the control of the court:

(1) Bring and defend actions;

(2) Take and keep possession of the property of the public water system or public sewer system;

(3) Receive rents;

(4) Collect debts;

(5) Sell or otherwise dispose of all or part of the real or personal property of a public water system or public sewer system; and

(6) Take other actions concerning the public water system or public sewer system and its property as the court may authorize.

(f) Upon application by the Arkansas Natural Resources Commission to a court having jurisdiction and upon approval of the court, the receiver may sell, transfer, convey, or donate the public water system or public sewer system to, or merge the public water system or public sewer system with, another public water system or public sewer system.

(g) Upon certification by the Department of Health that the public water system's or public sewer system's operation represents an immediate public health threat or certification by the Arkansas Department of Environmental Quality that the public sewer system is being operated in a manner to allow the discharge of pollutants in quantities unacceptable under applicable permits or state water quality standards and posing an imminent threat to public health, a court having jurisdiction in any proper action may, upon application of the Arkansas Natural Resources Commission, immediately appoint a receiver to take charge of the public water system or public sewer system.

History. Acts 2011, No. 703, § 1.

Subchapter 5 — Water Development Projects Generally

SECTION.

15-22-501. Definitions.

15-22-501. Definitions.

As used in this subchapter, "water development project" means the construction, acquisition, ownership, replacement, operation, and maintenance of facilities, including land, easements, and works of improvement, for the protection, conservation, preservation, develop-

ment, utilization, and proper disposal of the state's water resources and related land resources in order to:

(1) Provide for the people of the state adequate supplies of quality water for municipal, industrial, agricultural, recreational, and domestic purposes, water for navigation, and access to the state's lakes and streams, parks, and other recreational sites along their shores;

(2) Reclaim, preserve, and protect the state's land resources and adequately protect the wealth of the state from disastrous floods; and

(3) Collect or treat sewage, including without limitation, wastewater treatment plants, intercepting sewers, outfall sewers, force mains, pumping stations, instrumentation and control systems, and other appurtenances necessary or useful for the collection, removal, reduction, treatment, purification, disposal, and handling of liquid and solid waste, sewage and industrial waste, and refuse.

History. Acts 1969, No. 217, § 1; 1973, No. 584, § 1; A.S.A. 1947, § 21-1317; Acts 2011, No. 26, § 1.

Amendments. The 2011 amendment deleted former (1); redesignated former (2)(A) and (B) as present (1) and (2); and added (3).

CHAPTER 23

RIVERS AND CREEKS

SUBCHAPTER.

2. Arkansas Waterways Commission.

Subchapter 2 — Arkansas Waterways Commission

SECTION.

15-23-205. Arkansas Port, Intermodal, and Waterway Development Grant Program. [Effective January 1, 2014.]

Effective Dates. Acts 2013, No. 1483, § 3: Jan. 1, 2014, by its own terms.

15-23-205. Arkansas Port, Intermodal, and Waterway Development Grant Program. [Effective January 1, 2014.]

(a)(1) The Arkansas Waterways Commission shall establish and administer the Arkansas Port, Intermodal, and Waterway Development Grant Program that shall be used to provide financial assistance to port authorities and intermodal authorities for the purpose of funding port development projects, including without limitation the construction, improvement, capital facility rehabilitation, and expansion of a public port facility, including without limitation an intermodal facility and a maritime-related industrial park infrastructure development.

(2) Wharves, cargo handling equipment, utilities, railroads, primary access roads, and buildings that are an integral part of a port development project are also eligible for funding under this section.

(b) The goals of the program are to:

(1) Ensure that adequate land-side facilities are available to meet a definite market need by providing guidance and public funds to build land-side infrastructure that will provide jobs and competitive transportation costs for moving cargo, thereby minimizing highway congestion, improving safety, and reducing maintenance costs related to Arkansas's highways; and

(2) Provide funding for dredging ports and waterways to allow Arkansas products to reach additional markets.

(c) An Arkansas public port authority or intermodal authority may apply for funding of a port development project under the program.

(d)(1) To apply for funding under the program, a port authority or intermodal authority shall submit an application for funding to the commission on or before June 1 for funding consideration in the following fiscal year.

(2) The application required under subdivision (d)(1) of this section shall include the following:

(A) A description of the port development project;

(B) Evidence that the port authority or intermodal authority has an immediate need for the port development project;

(C) A description of the benefits to be derived from the port development project;

(D) A preliminary design of the port development project;

(E) A cost estimate for the port development project;

(F) A description of the port development project area; and

(G) Any other information or documentation required by the commission.

(e) The funding provided under the program shall not exceed ninety percent (90%) of the cost of construction or fifty percent (50%) of the dredging costs.

(f) The commission shall promulgate rules to implement this section.

History. Acts 2013, No. 1483, § 2.

A.C.R.C. Notes. Acts 2013, No. 1483, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas has the third largest inland waterway system in the United States and is thirty-fourth in waterway shipments;

"(2) Each barge that travels on Arkansas's waterways reduces the number of trucks traveling on Arkansas's roadways by sixty (60), which reduces roadway congestion and highway maintenance costs; and

"(3) Arkansas's waterways allow the state's agricultural industry to export crops around the world in a cost-effective manner.

"(b) The General Assembly intends for this act to:

"(1) Reduce traffic and improve safety on the roadways in Arkansas;

"(2) Reduce the cost of maintaining Arkansas roadways; and

"(3) Increase Arkansas's ability to be competitive in the worldwide economy."

Effective Dates. Acts 2013, No. 1483, § 3: Jan. 1, 2014, by its own terms.

SUBTITLE 3. FOREST RESOURCES

CHAPTER 31

ARKANSAS FORESTRY COMMISSION

Subchapter 1 — General Provisions

15-31-106. Functions, powers, and duties.

A.C.R.C. Notes. Acts 2013, No. 434, § 46, provides: "REFUND TO EXPENDITURE. The Arkansas Forestry Commission is authorized to charge fees to federal agencies and other states to reimburse the Commission for expenditures made on behalf of these governmental units. These fees shall be deposited into the State Forestry Fund in the State Treasury as a refund to expenditure.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Acts 2013, No. 434, § 48, provides: "REPORTING REQUIREMENTS. The Arkansas Forestry Commission shall present the following data each month to the Chief Fiscal Officer of the State and the Arkansas Legislative Council or Joint Budget Committee. This report shall be due by the 10th day of the month following the reporting period. The first reporting period shall be July 2012.

"a) All fund transfers completed by the Arkansas Forestry Commission from any funding source including federal funds, and shall include a justification for the completion of the fund transfers.

"b) All expenditures incurred by the Arkansas Forestry Commission from any funding source including federal funds, and shall include a justification for the expenditure of the funds.

"c) All revenue receipts of the Arkansas Forestry Commission including but not limited to federal funds, general revenue, severance tax, acreage tax, timber sales and seedlings sales.

"d) All Arkansas Forestry Commission activities including but not limited to, firefighting activities, fire prevention, and emergency response as it relates to the Commission's statutory mission provided in Arkansas Code 15-31-101.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."